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No. 38] NEW DELHI, SEPTEMBER 16—SEPTEMBER 22, 2012, SATURDAY/ BHADRA 25—BHADRA 31, 1934

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 6 सितम्बर, 2012

का. आ. 2897.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालय में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80 प्रतिशत से अधिक हो जाने के फलस्वरूप एतद्वारा अधिसूचित करती है :

पुलिस उप महानिरीक्षक का कार्यालय, रंगरूट-प्रशिक्षण-केन्द्र, केन्द्रीय रिजर्व पुलिस बल, राजगीर, बिहार ।

[फा. सं. 12017/1/2012-हिन्दी]
अवधेश कुमार मिश्र, निदेशक (राजभाषा)

MINISTRY OF HOME AFFAIRS

New Delhi, the 6th September, 2012

S. O. 2897.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notifies the following office of the Ministry of Home Affairs wherein the percentage of the staff having working knowledge of Hindi has gone above 80%.

Office of the Deputy Inspector General, Recruit Training Centre, CRPF, Rajgir, Bihar.

[F. No. 12017/1/2012-Hindi]

AVADHESH KUMAR MISHRA, Director (OI)

नई दिल्ली, 10 सितम्बर, 2012

का. आ. 2898.—केंद्रीय सरकार, (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालय में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80 प्रतिशत से अधिक हो जाने के फलस्वरूप उन्हें एतद्वारा अधिसूचित करती है :-

1. के.ओ.सु. बल आर.टी.सी. देवली (राजस्थान)
2. के.ओ.सु. बल इकाई ए.एस.जी. पटना (बिहार)
3. के.ओ.सु. बल इकाई एस.सी.एल. मोहाली (पंजाब)
4. के.ओ.सु. बल इकाई ए.एस.जी. उदयपुर (राजस्थान)
5. के.ओ.सु. बल एयर पोर्ट (उत्तरी क्षेत्र) मुख्यालय, नई दिल्ली

6. के.ओ.सु. बल इकाई ए.एस.जी. भुन्तर (हिमाचल प्रदेश)
7. के.ओ.सु. बल इकाई ए.एस.जी. गया (बिहार)
8. के.ओ.सु. बल इकाई ए.एस.जी. कानपुर (उ. प्रदेश)
9. के.ओ.सु. बल समूह मुख्यालय कोचीन (केरल)
10. के.ओ.सु. बल इकाई ए.एस.जी. रांची (झारखण्ड)
11. के.ओ.सु. बल इकाई बी.आई.एम. टेनसा (उड़ीसा)
12. के.ओ.सु. बल इकाई एन.एल.सी.एम./टी.पी.पी. बरसिहसर, बीकानेर (राजस्थान)
13. के.ओ.सु. बल इकाई बी.पी.एस.सी.एल. बोकारो (झारखण्ड)
14. के.ओ.सु. बल इकाई आई.ओ.सी.एल. डिगबोई (असम)
15. के.ओ.सु. बल इकाई एम.सी.एफ. हासन (कर्नाटक)

[फा. सं. 12017/1/2012-हिन्दी]

अवधेश कुमार मिश्र, निदेशक (राजभाषा)

New Delhi, the 10th September, 2012

S. O. 2898.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976 (as amended, 1987) the Central Government hereby notifies the following office of the Ministry of Home Affairs wherein the percentage of the staff having working knowledge of Hindi has gone above 80%.

1. CISF RTC Deoli (Rajasthan)
2. CISF Unit ASG Patna (Bihar)
3. CISF Unit SCL Mohali (Punjab)
4. CISF Unit ASG Udaipur (Rajasthan)
5. CISF Airport (North Zone) Hqrs. New Delhi
6. CISF Unit ASG Bhunter (H.P.)
7. CISF Unit ASG Gaya (Bihar)
8. CISF Unit ASG Kanpur
9. CISF Group Hqrs., Cochin (Kerala)
10. CISF Unit ASG Ranchi (Jharkhand)
11. CISF Unit B.I.M. Tensa (Orissa)
12. CISF Unit N.L.C.M./T.P.P. Barsinghsar, Bikaner (Rajasthan)
13. CISF Unit B.P.S.C.L. Bokaro (Jharkhand)
14. CISF Unit I.O.C.L. Digboai (Assam)
15. CISF Unit M.C.F. Hassan (Karnataka)

[F. No. 12017/1/2012-हिन्दी]

AVADHESH KUMAR MISHRA, Director

नई दिल्ली, 10 सितम्बर, 2012

का. आ. 2899.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालय में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80 प्रतिशत से अधिक हो जाने के फलस्वरूप उन्हें एतद्वारा अधिसूचित करती है :—

1. के.ओ.सु. बल आर.टी.सी. देवली (राजस्थान)
2. के.ओ.सु. बल इकाई ए.एस.जी. पटना (बिहार)
3. के.ओ.सु. बल इकाई एस.सी.एल. मोहाली (पंजाब)
4. के.ओ.सु. बल इकाई ए.एस.जी. उदयपुर (राजस्थान)
5. के.ओ.सु. बल एयर पोर्ट (उत्तरी क्षेत्र) मुख्यालय, नई दिल्ली
6. के.ओ.सु. बल इकाई ए.एस.जी. भुन्तर (हिमाचल प्रदेश)
7. के.ओ.सु. बल इकाई ए.एस.जी. गया (बिहार)
8. के.ओ.सु. बल इकाई ए.एस.जी. कानपुर (उ. प्रदेश)
9. के.ओ.सु. बल समूह मुख्यालय कोचीन (केरल)
10. के.ओ.सु. बल इकाई ए.एस.जी. रांची (झारखण्ड)
11. के.ओ.सु. बल इकाई बी.आई.एम. टेनसा (उड़ीसा)
12. के.ओ.सु. बल इकाई एन.एल.सी.एम./टी.पी.पी. बरसिहसर, बीकानेर (राजस्थान)
13. के.ओ.सु. बल इकाई बी.पी.एस.सी.एल. बोकारो (झारखण्ड)
14. के.ओ.सु. बल इकाई आई.ओ.सी.एल. डिगबोई (असम)
15. के.ओ.सु. बल इकाई एम.सी.एफ. हासन (कर्नाटक)

[फा. सं. 12017/1/2012-हिन्दी]

अवधेश कुमार मिश्र, निदेशक (राजभाषा)

New Delhi, the 10th September, 2012

S. O. 2899.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976 (as amended, 1987) the Central Government hereby notifies the following office of the Ministry of Home Affairs wherein the percentage of the staff having working knowledge of Hindi has gone above 80%.

1. CISF RTC Deoli (Rajasthan)
2. CISF Unit ASG Patna (Bihar)
3. CISF Unit SCL Mohali (Punjab)
4. CISF Unit ASG Udaipur (Rajasthan)
5. CISF Airport (North Zone) Hqrs. New Delhi
6. CISF Unit ASG Bhunter (H.P.)

7. CISF Unit ASG Gaya (Bihar)
8. CISF Unit ASG Kanpur
9. CISF Group Hqrs., Cochin (Kerala)
10. CISF Unit ASG Ranchi (Jharkhand)
11. CISF Unit B.I.M. Tensa (Orissa)
12. CISF Unit N.L.C.M./T.P.P Barsinghsar, Bikaner (Rajasthan)
13. CISF Unit B.P.S.C.L. Bokaro (Jharkhand)
14. CISF Unit I.O.C.L. Digboai (Assam)
15. CISF Unit M.C.F. Hassan (Karnataka)

[F. No. 12017/1/2012-Hindi]

AVADHESH KUMAR MISHRA, Director (OL)

नई दिल्ली, 12 सितम्बर, 2012

का. आ. 2900.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों को बेदखली, अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री शशीश कुमार मिश्र, सहायक निदेशक, आसूचना ब्यूरो, नई दिल्ली को जो सरकार के राजपत्रित अधिकारी हैं, श्री मंगल सिंह के स्थान पर उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करते हैं और निदेश देते हैं कि उक्त अधिकारी, निदेशक, आसूचना ब्यूरो, नई दिल्ली के नियंत्रणाधीन सभी सरकारी आवास सुविधा के सम्बन्ध में, उक्त अधिनियम के द्वारा या उसके अधीन सम्पदा अधिकारी को प्रदत्त शक्तियों का प्रयोग करेगा और अधिरोपित कर्तव्यों का पालन करेगा।

[फा. सं. 6/सी.-2/2006(10)-पी.एफ.-II-3442]

राजेंद्र सिंह खिची, अवर सचिव

New Delhi, the 12th September, 2012

S. O. 2900.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of unauthorised occupations) Act, 1971 (40 of 1971), the Central Government hereby appoints Shri Sashish Kumar Misra, Assistant Director, Intelligence Bureau, New Delhi, a Gazetted Officer of the Government to be the Estates Officer vice Shri Mangal Singh, Assistant Director, for the purpose of the said act and directs that the Estates Officer shall exercise the powers conferred and perform the duties imposed on the Estates Officer by or under the said Act in respect of all Government accommodation under the control of the Director, Intelligence Bureau at New Delhi.

[F. No. 6/C-II/2006(10)-PF-II-3442]

RAJENDER SINGH KHICHI, Under Secy.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 10 सितम्बर, 2012

का. आ. 2901.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिल्ली विशेष पुलिस स्थापना द्वारा अन्वेषण किए जाने वाले विनिर्दिष्ट निम्नोक्त अपराधों नामतः—

(क) कर्नाटक भूमि (हस्तांतरण पर प्रतिबंध) अधिनियम, 1991 के अधीन दंडनीय अपराधों; तथा

(ख) प्रयासों, दुष्प्रेरण तथा इससे सम्बद्ध षड्यंत्रों अथवा उपर्युक्त उल्लिखित अपराध के संबंध में तथा इसी संव्यवहार में किए गए अथवा इन तथ्यों से उत्पन्न कोई अन्य अपराध या अपराधों।

[फा. सं. 228/49/2012-एवीडी-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 10th September, 2012

S.O. 2901.—In exercise of the powers conferred by section 3 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government hereby specifies the following offence which is to be investigated by the Delhi Special Police Establishment namely :—

(a) Offences punishable under the Karnataka Land (Restriction on Transfer) Act, 1991; and

(b) Attempts, abetments and conspiracies in relation to or in connection with the above mentioned offence and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F. No. 228/49/2012-AVD-II]

RAJIV JAIN, Under Secy.

नई दिल्ली, 12 सितम्बर, 2012

का. आ. 2902.—केन्द्र सरकार दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थापित मामलों में परीक्षण न्यायालयों और अपीलों, पुनरीक्षणों या विधि द्वारा स्थापित अपीलीय या पुनरीक्षण न्यायालयों में इन मामलों से उत्पन्न अन्य मामलों का अभियोजन स्थानीय क्षेत्रों सहित सम्पूर्ण झारखंड राज्य में संचालित करने के लिए श्री कुन्दन कुमार सिन्हा, वकील को केन्द्रीय अन्वेषण ब्यूरो के लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 2007/5/2011-एवीडी-II]

राजीव जैन, अवर सचिव (V-II)

New Delhi, the 12th September, 2012

S. O. 2902.—In exercise of the powers conferred by sub-section (2) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Kundan Kumar Sinha Advocate in Central Bureau of Investigation as Public Prosecutor for conducting the prosecution of cases in the local area comprising the whole State of Jharkhand instituted by the Delhi Special Police Establishment (CBI) in trial courts and appeals, revisions or other matters arising out of these cases in revisional or appellate Courts, established by law.

[F. No. 202/5/2011-AVD-II]

RAJIV JAIN, Under Secy (V-II)

नई दिल्ली, 12 सितम्बर, 2012

का. आ. 2903.—केन्द्रीय सरकार एतद्द्वारा दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थापित मामलों में परीक्षण न्यायालयों और अपीलों, पुनरीक्षणों या विधि द्वारा स्थापित अपील न्यायालयों या पुनरीक्षण

न्यायालयों में इन मामलों से उत्पन्न अन्य मामलों का अभियोजन स्थानीय क्षेत्रों सहित सम्पूर्ण बिहार राज्य में संचालित करने के लिए श्री अख्तर हुसैन खान, वकील को केन्द्रीय अन्वेषण ब्यूरो के लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 202/5/2012-एवीडी-II]

राजीव जैन, अवर सचिव (V-II)

New Delhi, the 12th September, 2012

S. O. 2903.—In exercise of the powers conferred by sub-section (2) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Akhtar Hussain Khan Advocate in Central Bureau of Investigation as Public Prosecutor for conducting the prosecution of cases in the local area comprising the whole State of Bihar instituted by the Delhi Special Police Establishment (CBI) in trial courts and appeals, revisions or other matters arising out of these cases in revisional or appellate Courts, established by law.

[F. No. 202/5/2012-AVD-II]

RAJIV JAIN, Under Secy (V-II)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 16 अगस्त, 2012

का. आ. 2904.—सरकारी स्थान (अनधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार, वित्त मंत्रालय, वित्तीय सेवाएं विभाग के दिनांक 20-4-2009 के कानूनी आदेश संख्या 1484(अ) दिनांक 20-4-2009 के अंतर्गत प्रकाशित अधिसूचना का अतिक्रमण करते हुए (सिवाय उन कार्यों के जो ऐसे अधिक्रमण के पहले किए गए अथवा छोड़ दिए गए), केन्द्रीय सरकार, एतद्द्वारा, निम्नलिखित सारणी के कॉलम (2) में उल्लिखित अधिकारियों को उक्त अधिनियम के प्रयोजन के लिए सम्पदा अधिकारी नियुक्त करती है और आगे यह निदेश देती है कि उक्त अधिकारी उक्त अधिनियम द्वारा या उसके अंतर्गत सम्पदा अधिकारी को प्रदत्त शक्तियों और अधिरोपित कर्तव्यों का, अधोलिखित सारणी के कॉलम (3) में विनिर्दिष्ट क्षेत्र के अंतर्गत आने वाले सरकारी स्थानों के संबंध में, प्रयोग करेंगे।

सारणी

क्रम सं. अधिकारी, प्रशासनिक प्रमुख, जो भी पदनाम हो, का पदनाम सरकारी स्थानों की श्रेणियां और क्षेत्राधिकार की स्थानीय सीमाएं

(1)	(2)	(3)
1.	अंचल कार्यालय, हैदराबाद के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 6-1-73, लकड़ी का पुल, सैफाबाद, हैदराबाद-500004	आन्ध्र प्रदेश राज्य में अंचल कार्यालय हैदराबाद के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 23 जिले शामिल हैं :— पूर्वी गोदावरी जिला, गुंटूर, चित्तूर, हैदराबाद, कडप्पा, करीमनगर, कृष्णा, कुरुनूल, महबूबनगर, अनंतपुर, नालगोंडा, नेल्लोर, निजामाबाद, प्रकाशम, रंगारेड्डी, श्रीकाकुलम, विशाखापट्टनम, विजयानगरम, वारांगल, पश्चिमी गोदावरी जिला, संगारेड्डी, खम्माम, आदिलाबाद।
2.	अंचल कार्यालय, मुजफ्फरपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, मुजफ्फरपुर बैंकज पाकेट,	बिहार राज्य में अंचल कार्यालय मुजफ्फरपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए

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सरैयागंज, मुजफ्फरपुर-842001

3. अंचल कार्यालय, दरभंगा के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक दरभंगा कमर्शियल हाउस, लहेरियासराय, दरभंगा-846001

4. अंचल कार्यालय, पटना के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक पटना 'ए', आर ब्ल. चाणक्य प्लेस, पटना-842001

5. अंचल कार्यालय, आरा के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक जी. सी. हाउस, महाराजा कंपाउंड, आरा

6. अंचल कार्यालय, बिहार शरीफ के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, रामचन्द्रपुर, बिहार शरीफ-8031010

7. अंचल कार्यालय, गया के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 'ए' 400 एपी कालोनी, गया-823001

8. अंचल कार्यालय, रायपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, मदीना मर्जिल मेडिकल कालेज रोड, रायपुर, छत्तीसगढ़

9. अंचल कार्यालय, नार्थ दिल्ली के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, राजेन्द्र भवन, रोजेन्द्र प्लेस, नई दिल्ली

अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 9 जिले शामिल हैं :—

मुजफ्फरपुर, सीतामढ़ी, सिवान, गोपालगंज, पूर्वी चम्पारन, पश्चिमी चम्पारन, सारन, वैशाली, शिवहर ।

बिहार राज्य में अंचल कार्यालय दरभंगा के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 12 जिले शामिल हैं :—

मधुबनी, समस्तीपुर, बेगुसराय, सहरसा, सुपौल, अररिया, पूर्णिया, कटिहार, किशनगंज, दरभंगा, मधेपुरा ।

बिहार राज्य में अंचल कार्यालय पटना के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 1 जिला शामिल हैं :—

पटना

बिहार राज्य में अंचल कार्यालय आरा के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 4 जिले शामिल हैं :—

भाभुआ, भोजपुर, बक्सर, रोहतास

बिहार राज्य में अंचल कार्यालय बिहार शरीफ के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 8 जिले शामिल हैं :—

लक्खीसराय, नालन्दा, नवादा, जमुई, शेखपुरा, भागलपुर, मुंगेर, बांका ।

बिहार राज्य में अंचल कार्यालय गया के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 4 जिले शामिल हैं :—

गया, औरंगाबाद, जाहनाबाद, अरवल

छत्तीसगढ़ राज्य में अंचल कार्यालय रायपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 14 जिले शामिल हैं :—

बस्तर, बिलासपुर, धमतरी, दुर्ग, जंजगीर-चम्पा, कोरबा, कोरिया, महासमंद, रायगढ़, रायपुर, राजनंदगांव, दांतवाड़ा, जसपुर, कवर्धा ।

दिल्ली राज्य में अंचल कार्यालय नार्थ दिल्ली के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 6 जिले शामिल हैं :—

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10. अंचल कार्यालय, अहमदाबाद के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, एमजे लाइब्रेरी के सामने, इलाहाबाद पुल, आश्रम रोड, अहमदाबाद-380006

पूर्वी दिल्ली, पूर्वोत्तर दिल्ली, उत्तरी दिल्ली, सेन्ट्रल दिल्ली, पश्चिमोत्तर दिल्ली, पश्चिमी दिल्ली ।

गुजरात राज्य में अंचल कार्यालय अहमदाबाद के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 26 जिले शामिल हैं :—

अहमदाबाद, अमरेली, आनंद, भरूच, भुवनगर, गांधीनगर, जामनगर, जूनागढ़, खेड़ा, कच्छ, मेहसाणा, नवसारी, पाटन, पोरबंदर, राजकोट, साबरकांठा, सूरत, सुरेन्द्रनगर, बड़ोदरा, वलसाड, बनासकांठा, दाहोद, डांग, नर्मदा, तापी, पंचमहल ।

11. अंचल कार्यालय, चण्डीगढ़ के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पीएनबी हाउस, सेक्टर-17-बी, चण्डीगढ़-160017

हरियाणा राज्य में अंचल कार्यालय चण्डीगढ़ के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 3 जिले शामिल हैं :—

चण्डीगढ़, पंचकुला, अम्बाला

12. अंचल कार्यालय, हिसार के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, आईआईटी के सामने, डाबर चौक, हिसार-125005

हरियाणा राज्य में अंचल कार्यालय हिसार के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 3 जिले शामिल हैं :—

हिसार, सिरसा, फतेहगढ़

13. अंचल कार्यालय, करनाल के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, मीरा घाटी सद्भावना चौक, जी टी रोड, करनाल-132001

हरियाणा राज्य में अंचल कार्यालय करनाल के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 3 जिले शामिल हैं :—

करनाल, पानीपत, सोनीपत

14. अंचल कार्यालय, रोहतक के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, गीता कालोनी, सर्कुलर रोड, रोहतक-124001

हरियाणा राज्य में अंचल कार्यालय रोहतक के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 5 जिले शामिल हैं :—

रोहतक, झज्जर, रेवाड़ी, नारनौल, भिवानी

15. अंचल कार्यालय, शिमला के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, रिजेंट हाऊस, दि माल, शिमला-196001

हिमाचल प्रदेश राज्य में अंचल कार्यालय शिमला के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 4 जिले शामिल हैं :—

किन्नौर, शिमला, सिरमौर, सोलन

16. अंचल कार्यालय, धर्मशाला के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, कचहरी रोड, जीपीओ के नजदीक, धर्मशाला-176215

हिमाचल प्रदेश राज्य में अंचल कार्यालय धर्मशाला के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 2 जिले शामिल हैं :

कांगड़ा, चम्बा

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17. अंचल कार्यालय, हमीरपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, न्यु रोड, हमीरपुर-177001

हिमाचल प्रदेश राज्य में अंचल कार्यालय हमीरपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 3 जिले शामिल हैं :—

हमीरपुर, ऊना, बिलासपुर

18. अंचल कार्यालय, मण्डी के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, मण्डी जल रोड, बाटला चौक, मण्डी-175001

हिमाचल प्रदेश राज्य में अंचल कार्यालय मण्डी के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 3 जिले शामिल हैं :—

मण्डी, कुल्लू, केलौंग

19. अंचल कार्यालय, जम्मू के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, आई लैंड टावर रेल मुख्य परिसर, जम्मू-180012

जम्मू एवं कश्मीर राज्य में अंचल कार्यालय जम्मू के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 19 जिले शामिल हैं :—

जम्मू, कटुआ, सांबा, पूछ, राजौरी, डोडा, रियासी, रामबाण, उधमपुर, श्रीनगर, अनंतनाग, कुलगांव, पुलवामा, बेदगाम, बारामूला, कूपवाड़ा, लेह, गंदरबाल, बांदीपोरा

20. अंचल कार्यालय, रांची के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, बेगराय मार्केट, मेन रोड, रांची-834001

झारखण्ड राज्य में अंचल कार्यालय रांची के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 24 जिले शामिल हैं :—

रांची, पूर्वी सिंहभूम, पश्चिमी सिंहभूम, सरायकेला, बोकारो, धनबाद, पलामू, लातेहार, गढ़वा, गिरिडीह, हजारीबाग, चतरा, लोहरदगा, गोड्डा, देवघर, दुमका, गुमला, जामताड़ा, खुंटी, कोडरमा, पाकुर, रामगढ़, साहेबगंज, सिमडेगा

21. अंचल कार्यालय, बंगलोर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 26-27, एम जी रोड, रहेजा टावर्स, बंगलोर-560001

कर्नाटक राज्य में अंचल कार्यालय बंगलोर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 19 जिले शामिल हैं :—

बंगलोर, रामनगर, बेलगाम, बिदर, बीजापुर, दक्षिण कन्नड, धारवाड़, देवनगरे, गडग, गुलबर्गा, हासन, कोलार, मांड्या, मैसूर, उत्तरी, कन्नड, शिमोगा, तुमकुर, उडिपी, बेल्लारी

22. अंचल कार्यालय, कोझीकोड के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, शताब्दी भवन, मिनी बाईपास रोड, पीओ. एए, गोविंदपुरम, कोझीकोड-673016

केरल राज्य में अंचल कार्यालय कोझीकोड के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 6 जिले शामिल हैं :—

कन्नूर, कासरगोडा, कोझीकोड, मालापुरम, पालाक्कड, वायनाड

23. अंचल कार्यालय, भोपाल के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, शिखरवार्ता भवन, प्रेस कांफ्लेक्स होशंगाबाद रोड, भोपाल-462201

मध्य प्रदेश राज्य में अंचल कार्यालय भोपाल के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 12 जिले शामिल हैं :—

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24. अंचल कार्यालय, इंदौर के स.म.प्र./उ.म.प्र. वर्तमान पता,
पंजाब नेशनल बैंक, इंदौर-20, स्नेह नगर, इंदौर-520001

25. अंचल कार्यालय, जबलपुर के स.म.प्र./उ.म.प्र. वर्तमान पता,
पंजाब नेशनल बैंक, 1227, नापेर टाऊन, जबलपुर-482001

26. अंचल कार्यालय, मुम्बई के स.म.प्र./उ.म.प्र. वर्तमान पता,
पंजाब नेशनल बैंक, कफ परेड, 7वीं मंजिल, मेकर टावर
एफ, मुम्बई-400005

27. अंचल कार्यालय, नागपुर के स.म.प्र./उ.म.प्र. वर्तमान पता,
पंजाब नेशनल बैंक, पीएनबी हाउस, किन्नरवाड़े,
नागपुर-440001

28. अंचल कार्यालय, पुणे के स.म.प्र./उ.म.प्र. वर्तमान पता,
पंजाब नेशनल बैंक, अरोड़ा टावर्स, मेजनीन फ्लोर, 9
मेल्लादीन रोड, पुणे कैम्प, पुणे-411001

29. अंचल कार्यालय, गुवाहाटी के स.म.प्र./उ.म.प्र. वर्तमान पता,
पंजाब नेशनल बैंक, नीलगिरी मेनशन, भंगाधार जी एस
रोड, गुवाहाटी

बेतुल, भोपाल, दतिया, होशंगाबाद, हरदा, सिहोर, विदिशा, ग्वालियर,
मुरैना, शिवपुर, रिसन, भिण्ड

मध्य प्रदेश राज्य में अंचल कार्यालय इंदौर के प्रशासनिक नियंत्रण में
पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा
उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे
उल्लिखित 17 जिले शामिल हैं :—

इंदौर, बधवानी, खारगौन, मंदसौर, नीमच, राजगढ़, गुना, अशोक
नगर, खांडवा, बुरहानपुर, रतलाम, शाजापुर, शिवपुरी, उज्जैन, देवास,
धार, झाबुआ

मध्य प्रदेश राज्य में अंचल कार्यालय जबलपुर के प्रशासनिक नियंत्रण
में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए
अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में
नीचे उल्लिखित 15 जिले शामिल हैं :—

बालाघाट, छतरपुर, छिंदवाड़ा, डिंडोरे, दमोह, जबलपुर, कटनी, माडिया,
नरसिंहपुर, रेवा, सिओनी, सागर, सतना, सिधी, सिंगरौली

महाराष्ट्र राज्य में अंचल कार्यालय मुम्बई के प्रशासनिक नियंत्रण में
पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा
उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे
उल्लिखित 3 जिले शामिल हैं :—

मुम्बई उपनगर, थाणे, रायगढ़

महाराष्ट्र राज्य में अंचल कार्यालय नागपुर के प्रशासनिक नियंत्रण में
पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा
उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे
उल्लिखित 16 जिले शामिल हैं :—

अकोला, अमरावती, बुलढाणा, चन्द्रपुर, गोंदिया, जलगांव, नागपुर,
नांदेड, वर्धा, यवतमाल, लातूर, पंभानी, बांद्रा, गढ़चिरोली, हिंगोली,
वाशिम

महाराष्ट्र राज्य में अंचल कार्यालय पुणे के प्रशासनिक नियंत्रण में
पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा
उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे
उल्लिखित 17 जिले शामिल हैं :—

पुणे, अहमदनगर, औरंगाबाद, धुलिया, कोल्हापुर, नासिक, सांगली,
सोलापुर, रत्नागिरी, सिंधुदुर्ग, सतारा, नंदुरवार, बीड, ओसमानाबाद,
जालना, उत्तरी गोवा, दक्षिण गोवा

असम राज्य में अंचल कार्यालय गुवाहाटी के प्रशासनिक नियंत्रण में
पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा
उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे
उल्लिखित 24 जिले शामिल हैं :—

बारपेटा, बोंगईगांव, कछार, डिब्रूगढ़, गोलाघाट, जोरहाट, कामरूप,
करीमगंज, नालबाड़ी, दारंग, नागांव, तिनसुकिया, सोनितपुर, पूर्वी
खासी हिल्स, रि-भोई, मोरीगांव, धुब्री, दीमापुर, आईजोल, गोलपाड़ा,
इम्फाल पश्चिम, पापूमपेरे, सिबसागर, पश्चिमी त्रिपुरा

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30. अंचल कार्यालय, भुवनेश्वर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, चौथी मंजिल, दीनदयाल भवन, अशोक नगर, जनपथ, भुवनेश्वर-751009
31. अंचल कार्यालय, अमृतसर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, मैकील रोड, सेंट फ्रांसिस स्कूल के सामने, अमृतसर-143001
32. अंचल कार्यालय, होशियारपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, जालंधर रोड, होशियारपुर-146001
33. अंचल कार्यालय, जालंधर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, सिविल लाइन्स, जालंधर-144004
34. अंचल कार्यालय, भटिंडा के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, किकर बाजार, भटिंडा-151001
35. अंचल कार्यालय, लुधियाना के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, फिरोज गांधी मार्केट, पखोवाल रोड, लुधियाना-141001
36. अंचल कार्यालय, जयपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पीएनबी हाउस, 2 नेहरू प्लेस, टॉक रोड, जयपुर-302015
37. अंचल कार्यालय, भरतपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पीएनबी हाउस, सुपर बाजार,
- उड़ीसा राज्य में अंचल कार्यालय भुवनेश्वर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 24 जिले शामिल हैं :—
- अनुगुल, बालासोर, बारगढ़, भद्रक, कटक, धनेकनाल, गजपति, गंजम, जाजपुर, झारसुगुडा, जगतसिंहपुर, कोंझार, खुर्दा, मयूरभंज, नयागढ़, पुरी, केन्द्रपाड़ा, संबलपुर, सुन्दरगढ़, कालाहांडी, रायगढ़, कंधमाल, बोलंगीर, सोनपुर
- पंजाब राज्य में अंचल कार्यालय अमृतसर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 2 जिले शामिल हैं :—
- अमृतसर, तरन तारन
- पंजाब राज्य में अंचल कार्यालय होशियारपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 2 जिले शामिल हैं :—
- होशियारपुर, नवांशहर
- पंजाब राज्य में अंचल कार्यालय जालंधर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 1 जिला शामिल हैं :—
- जालंधर
- पंजाब राज्य में अंचल कार्यालय भटिंडा के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 5 जिले शामिल हैं :—
- भटिंडा, बरनाला, फिरोजपुर, फरीदकोट, मुक्तसर
- पंजाब राज्य में अंचल कार्यालय लुधियाना के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 2 जिले शामिल हैं :—
- लुधियाना, मोगा
- राजस्थान राज्य में अंचल कार्यालय जयपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 7 जिले शामिल हैं :—
- जयपुर, दौसा, टोंक, कोटा, बूंदी, जसमेर, झरगाड़
- राजस्थान राज्य में अंचल कार्यालय भरतपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा

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भरतपुर-302001

38. अंचल कार्यालय, जोधपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 802, पहली मंजिल, चोपासिनी रोड, जोधपुर-302003

39. अंचल कार्यालय, श्रीगंगानगर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पीएनबी हाउस, मीरा बाग, जवाहर नगर, श्रीगंगानगर-335001

40. अंचल कार्यालय, चेन्नै के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, आईजैडओ रायल टावर्स, तीसरी मंजिल, नया नं. 158, सलाई, चेन्नै-600002

41. अंचल कार्यालय, त्रिची के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पीएनबी हाउस, भोला कैलाशपुरम, तंजोर रोड, त्रिची-620014

42. अंचल कार्यालय, आगरा के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 1-2, रघुनाथ नगर, एम जी रोड, आगरा-282002

43. अंचल कार्यालय, बरेली के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 156, सिविल लाइन्स, स्टेशन रोड, बरेली-243001

44. अंचल कार्यालय, बुलंदशहर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पीएनबी हाउस, यमुनपुरम,

उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 4 जिले शामिल हैं :—

भरतपुर, धोलपुर, सवाई माधोपुर, करौली

राजस्थान राज्य में अंचल कार्यालय जोधपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 15 जिले शामिल हैं :—

अजमेर, बांसवाड़ा, बाड़मेर, भीलवाड़ा, चित्तौड़गढ़, झुंझारपुर, जैसलमेर, जालोर, जोधपुर, नागौर, पाली, प्रतापगढ़, राजसमंद, सिरोंही, उदयपुर

राजस्थान राज्य में अंचल कार्यालय श्रीगंगानगर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 5 जिले शामिल हैं :—

बीकानेर, चुरू, झुंझार, हनुमानगढ़, श्रीगंगानगर

तमिलनाडु राज्य में अंचल कार्यालय चेन्नै के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 7 जिले शामिल हैं :—

चेन्नै, कांचीपुरम, चिदंबर, तिरुवेल्लूर, वेल्तोर, विल्लुपुरम, तिरुवनमलाई

तमिलनाडु राज्य में अंचल कार्यालय त्रिची के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 26 जिले शामिल हैं :—

अरियालूर, कोयम्बतूर, कुड्डालोर, डिंडीगूल, इरोड, कन्याकुमारी, करूर, मद्रुरै, नागापट्टनम, नामाक्कल, नीलगिरी, पुदुकोट्टाई, रामनाथपुरम, सेलम, शिवगंगा, तंजावुर, थेनी, तिरुनेलवेली, तिरुवरूर, त्रिची, तूतीकोरन, विरुडुनगर, धर्मपुरी, कृष्णागिरी, पेरंबलूर, तिरुपुर

उत्तर प्रदेश राज्य में अंचल कार्यालय आगरा के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 9 जिले शामिल हैं :—

आगरा, एटा, फिरोजाबाद, मैनपुरी, मथुरा, इटावा, हाथरस, काशीराम नगर, फर्रुखाबाद

उत्तर प्रदेश राज्य में अंचल कार्यालय बरेली के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 6 जिले शामिल हैं :—

बरेली, बदायूं, लखीमपुर खिरी, पीलीभीत, शाहजहांपुर, हरदोई

उत्तर प्रदेश राज्य में अंचल कार्यालय बुलंदशहर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए

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बुलंदशहर-203001		अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 2 जिले शामिल हैं :— बुलंदशहर, अलीगढ़
45. अंचल कार्यालय, झांसी के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, कानपुर रोड, झांसी-284001		उत्तर प्रदेश राज्य में अंचल कार्यालय झांसी के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 7 जिले शामिल हैं :— झांसी, ललितपुर, महोबा, बांदा, चित्रकूट, हमीरपुर, जालौन
46. अंचल कार्यालय, लखनऊ के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 94, एम जी रोड, लखनऊ-226001		उत्तर प्रदेश राज्य में अंचल कार्यालय लखनऊ के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 5 जिले शामिल हैं :— लखनऊ, बाराबंकी, सीतापुर, रायबरेली, छत्रपति साहू जी महाराज नगर
47. अंचल कार्यालय, गोरखपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, अलादपुर तुलसी इंटर कालेज के सामने, गोरखपुर-273001		उत्तर प्रदेश राज्य में अंचल कार्यालय गोरखपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 5 जिले शामिल हैं :— गोरखपुर, देवरिया, महाराजगंज, कुशीनगर, संत कबीरनगर
48. अंचल कार्यालय, वाराणसी के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, एस-20/56-डी, दि माल, कनेडी रोड, वाराणसी कैंट-221002		उत्तर प्रदेश राज्य में अंचल कार्यालय वाराणसी के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 13 जिले शामिल हैं :— इलाहाबाद, आजमगढ़, कोशाम्बी, बलिया, भदोही, चंदौल, गाजीपुर, जौनपुर, मऊ, मिर्जापुर, प्रतापगढ़, सोनभद्र, वाराणसी
49. अंचल कार्यालय, कानपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 59/29, बिरहाना रोड, कानपुर-206001		उत्तर प्रदेश राज्य में अंचल कार्यालय कानपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 6 जिले शामिल हैं :— फतेहपुर, औरैया, कन्नौज, कानपुर सिटी, कानपुर देहात, उन्नाव
50. अंचल कार्यालय, मेरठ के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, ईस्ट कचहरी रोड, मेरठ-250001		उत्तर प्रदेश राज्य में अंचल कार्यालय मेरठ के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 3 जिले शामिल हैं :— बागपत, गाजियाबाद, मेरठ
51. अंचल कार्यालय, मुरादाबाद के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, सिविल लाइन्स, मुरादाबाद-244001		उत्तर प्रदेश राज्य में अंचल कार्यालय मुरादाबाद के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 4 जिले शामिल हैं :— बिजनौर, मुरादाबाद, ज्योतिबा फुले नगर, रामपुर

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52. अंचल कार्यालय, मुजफ्फरनगर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 68 कंबल वाला बाग, मुजफ्फरनगर-251001

53. अंचल कार्यालय, देहरादून के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पीएनबी हाउस, पल्टन बाजार, देहरादून-248001

54. अंचल कार्यालय, हरिद्वार के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पीएनबी हाउस, सेक्टर-4, बीएचएल काम्प्लेक्स, हरिद्वार

55. अंचल कार्यालय, काशीपुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, बाजार रोड, काशीपुर-244713

56. अंचल कार्यालय, कोलकाता के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, चौथी मंजिल एपीजे हाउस, 15, पार्क स्ट्रीट, कोलकाता-700016

57. अंचल कार्यालय, बर्धवान के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, फैन्सी मार्केट काम्प्लेक्स, बर्धवान-713101

58. अंचल कार्यालय, मिदनापुर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, विद्यासागर रोड बाटला चौक, मिदनापुर-721001

59. अंचल कार्यालय, दक्षिणी दिल्ली के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, नई दिल्ली

उत्तर प्रदेश राज्य में अंचल कार्यालय मुजफ्फरनगर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 2 जिले शामिल हैं :—

सहारनपुर, मुजफ्फरनगर

उत्तराखंड राज्य में अंचल कार्यालय देहरादून के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 3 जिले शामिल हैं :—

देहरादून, उत्तरकाशी, टिहरी

उत्तराखंड राज्य में अंचल कार्यालय हरिद्वार के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 4 जिले शामिल हैं :—

हरिद्वार, चमाली, पौड़ी, रुद्रप्रयाग

उत्तराखंड राज्य में अंचल कार्यालय काशीपुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 6 जिले शामिल हैं :—

अल्मोड़ा, नैनीताल, उधम सिंह नगर, पिथौरागढ़, बगेश्वर, चम्पावत
पश्चिम बंगाल राज्य में अंचल कार्यालय कोलकाता के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 5 जिले शामिल हैं :—

कोलकाता, 24 परगना (साउथ), 24 परगना (नार्थ), हावड़ा, साउथ अंडमान (पोर्ट ब्लेयर)

पश्चिम बंगाल राज्य में अंचल कार्यालय बर्धवान के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 12 जिले शामिल हैं :—

बर्धवान, बांकुरा, दार्जिलिंग, बीरभूम, मलदा, दक्षिण दिनाजपुर, हुगली, जलपाईगुड़ी, मुर्शिदाबाद, उत्तर दिनाजपुर, नाडिआ, गंगटोक

पश्चिम बंगाल राज्य में अंचल कार्यालय मिदनापुर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 3 जिले शामिल हैं :—

पश्चिमी मिदनापुर, पूर्वी मिदनापुर, पुरुलिया

दिल्ली राज्य में अंचल कार्यालय दक्षिणी दिल्ली के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 7 जिले शामिल हैं :—

(1)

(2)

(3)

60. अंचल कार्यालय, फैजाबाद के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, देवकाली रोड, आचार्य नरेन्द्र देव नगर, फैजाबाद-224001

61. अंचल कार्यालय, कपूरथला के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पीएनबी हाउस, सत्य नारायण मंदिर रोड, कपूरथला-144601

62. अंचल कार्यालय, पटियाला के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, पटियाला करम काम्प्लेक्स, सरहिन्द रोड, पटियाला-147001

63. अंचल कार्यालय, कुरुक्षेत्र के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, छाता काम्प्लेक्स, पीपली रोड, कुरुक्षेत्र-136118

64. अंचल कार्यालय, अलवर के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, हर्षिल टावर, 29, नारु मार्ग, हवाई अड्डा रोड, अलवर-301001

65. अंचल कार्यालय, एर्णाकुलम के स.म.प्र./उ.म.प्र. वर्तमान पता, पंजाब नेशनल बैंक, 40/1461, मार्केट रोड, एर्णाकुलम-682011

दक्षिण दिल्ली, नई दिल्ली, दक्षिण पश्चिमी दिल्ली, गुडगांव, पलवल, फरीदाबाद, मेवात

उत्तर प्रदेश राज्य में अंचल कार्यालय फैजाबाद के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 7 जिले शामिल हैं :—

बस्ती, सिद्धार्थनगर, बलरामपुर, अंबेडकर नगर, सुलतानपुर, बहराइच, फैजाबाद, गोंडा, श्रावस्ती

पंजाब राज्य में अंचल कार्यालय कपूरथला के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 2 जिले शामिल हैं :—

गुरदासपुर, कपूरथला

पंजाब राज्य में अंचल कार्यालय पटियाला के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 6 जिले शामिल हैं :—

संगरूर, फतेहगढ़, साहिब, रोपड़, मोहाली, पटियाला, मनसा

हरियाणा राज्य में अंचल कार्यालय कुरुक्षेत्र के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 4 जिले शामिल हैं :—

कैथल, कुरुक्षेत्र, यमुनानगर, जीन्द

राजस्थान राज्य में अंचल कार्यालय अलवर के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 2 जिले शामिल हैं :—

अलवर, सीकर

केरल राज्य में अंचल कार्यालय एर्णाकुलम के प्रशासनिक नियंत्रण में पंजाब नेशनल बैंक के अथवा उसके द्वारा किराए पर लिए गए अथवा उसकी तरफ से किराए पर लिए गए परिसर, जिनमें वर्तमान में नीचे उल्लिखित 8 जिले शामिल हैं :—

अलपुजा, एर्णाकुलम, इडुक्की, कोट्टायम, पठानमीठा, क्यूलोन/कोल्लम, त्रिचूर, त्रिवेन्द्रम।

[फा. सं. 4/1/2012—बीओए]

एम. एम. दौला, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)
 New Delhi, the 16th August, 2012

S.O. 2904.—In exercise of the powers conferred by section 3 of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971) and in supersession of the Notification of Government of India in the Ministry of Finance, Department of Financial Services published under S.O. No. 1484(F) dated 20-4-2009 except in respect of things done or omitted to be done before such supersession, the Central Government hereby appoints the Officer mentioned in column No. 2 of the table below to be Estate Officer for the purpose of the said Act and further direct that the said officer shall exercise the powers conferred and the duties imposed on a Estate Officer by or under the said Act within the local limits of his jurisdiction in respect of the public premises falling under area as specified in column no. 3 of the table below :—

S. No.	Designation of the Officer, Administrative Head, whatsoever designation called	Categories of public premises and local limits of control of jurisdiction
(1)	(2)	(3)
1.	AGM/DGM, Circle Office, Hyderabad, Present address, Punjab National Bank, 6-1-73, Lakadi Ka pul, Saifabad, Hyderabad-500004	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Hyderabad, in the State of Andhra Pradesh, presently consisting 23 Districts, mentioned below : East Godavari District Guntur, Chittoor, Hyderabad, Kadapa, Karim Nagar, Krishna, Kurnool, Mohaboobnagar, Ananthpur, Nalgonda, Nellore, Nizamabad, Prakasam, Ranga Reddy, Srikakulam, Visakhapatnam, Vizianagaram, Warangal, West Godavari, Distt. Sangareddy, Khammam Adilabad.
2.	AGM/DGM, Circle Office, Muzaffarpur, Punjab National Bank, Present address, Muzaffarpur, Funkaj Pocket Saraigang, Muzaffarpur-842001.	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Muzaffarpur, in the State of Bihar, presently consisting 9 Districts, mentioned below : Muzaffarpur, Sitamarhi, Siwan, Gopalganj, East Champaran, West Champaran, Saran, Vaishali, Sheohar.
3.	AGM/DGM, Circle Office, Darbhanga, Punjab National Bank, Darbhanga, Commercial House, Laharia Sarai, Darbhanga-846001	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Darbhanga, in the State of Bihar, presently consisting 12 Districts, mentioned below : Madhubani, Samastipur, Begusarai, Saharsa, Supaul, Araria, Purnia, Katihar, Kishanganj, Darbhanga, Khagaria, Madhepur.
4.	AGM/DGM, Circle Office, Patna, Punjab National Bank, Patna 'A', R. Blow, Chanakya Place, Patna-842001	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Patna, in the State of Bihar, presently consisting 1 District, mentioned below : Patna.
5.	AGM/DGM, Circle Office, Arrah, Punjab National Bank, Arrah, G.C. House, Maharaja Compound, Arrah.	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Arrah, in the State of Bihar, presently consisting 4 Districts, mentioned below : Bhabhua, Bhojpur, Buxar, Rohtas
6.	AGM/DGM, Circle Office, Bihar Shrif, Punjab National Bank, Ramchanderpur, Bihar	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of

(1)	(2)	(3)
Sharif-8031010		Circle Office Bihar Sharif, in the State of Bihar, presently consisting 8 Districts, mentioned below :
7. AGM/DGM, Circle Office, Gaya, Punjab National Bank, Gaya 'A' 400 AP Colony Gaya-823001		Lahksarali, Nalanda, Nawada, Jamui, Sheikhpura, Bhagalpur Munger, Banka.
8. AGM/DGM, Circle Office, Raipur, Punjab National Bank, Madina Manjil Medical College Road, Raipur, Chatisgarh		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Gaya, in the State of Bihar, presently consisting 4 Districts, mentioned below :
9. AGM/DGM, Circle Office, North Delhi, Punjab National Bank, Rajendra Bhawan, Rajendra Place, New Dlehi.		Gaya, Aurangabad, Jehanabad, Arwal.
10. AGM/DGM, Circle Office, Ahmedabad, Punjab National Bank, Ahmedabad, facing MJ Library, Elice Pul, Ashram Road, Ahmedabad-380006		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Raipur, in the State of Chatisgarh, presently consisting 14 Districts, mentioned below :
11. AGM/DGM, Circle Office, Chandigarh, Punjab National Bank, PNB House, Sector 17-B, Chandigarh-160017		Bastar, Bilaspur, Dhamtari, Durg, Janjgir-Champa, Korba, Korea, Mahassmund, Raigarh, Raipur, Rajnandgaon, Dantewada, Jaspur, Kawardha.
12. AGM/DGM, Circle Office, Hisar, Punjab National Bank, Hisar, Opposite IIT, Dabur Chown, Hisar-125005.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office North Delhi, in the State of Delhi, presently consisting 6 Districts, mentioned below :
13. AGM/DGM, Circle Office, Karnal, Punjab National Bank, Meera Ghati Sadbhawna Chowk, G.T. Road, Karnal-132001.		East Delhi, North East Delhi, North Delhi, Central Delhi, North West Delhi, West Delhi.
		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Ahmedabad, in the State of Gujarat, presently 26 consisting Districts, mentioned below :
		Ahmedabad, Amreli, Anand, Bharuch, Bhavnagar, Gandhinagar, Jamnagar, Junagarh, Kheda, Kutch, Mehsana, Navsari, Patan, Porbandar, Rajkot, Sabarkantha, Surat, Surendranagar, Vadodara, Valsad, Banaskantha, Dahod, Dang, Narmada, Tapi, Panchmahal.
		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Chandigarh, in the State of Haryana, presently 3 consisting Districts, mentioned below :
		Chandigarh, Panchkula, Ambala.
		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Hisar, in the State of Haryana, presently consisting 3 Districts, mentioned below :
		Hisar, Sirsa, Fatehabad.
		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Karnal, in the State of Haryana, presently consisting 3 Districts, mentioned below :
		Karnal, Panipat, Sonapat

(1)

(2)

(3)

14. AGM/DGM, Circle Office, Rohtak, Punjab National Bank, Rohtak, Geeta Colony, Circular Road, Rohtak-124001

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Rohtak, in the State of Haryana, presently consisting 5 Districts, mentioned below :

Rohtak, Jhajjar, Rewari, Narnaul, Bhiwani.

15. AGM/DGM, Circle Office, Bihar Shimla, Punjab National Bank, Shimla, Regent House, The Mall, Shimla-196001

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Shimla, in the State of Himachal Pradesh, presently consisting 4 Districts, mentioned below :

Kannaur, Shimla, Sirmaur, Solan.

16. AGM/DGM, Circle Office, Dharamshala, Punjab National Bank, Kachehri Road, near GPO, Dharamshala-176215

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Dharamshala, in the State of Himachal Pradesh, presently consisting 2 Districts, mentioned below :

Kangra, Chamba.

17. AGM/DGM, Circle Office, Hamirpur, Punjab National Bank, Hamirpur, New road, Hamirpur-177011

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Hamirpur, in the State of Himachal Pradesh, presently consisting 3 Districts, mentioned below :

Hamirpur, Una, Bilaspur.

18. AGM/DGM, Circle Office, Mandi, Punjab National Bank, Mandi, Jal Road, Batala Chowk, Mandi-175001

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Mandi, in the State of Himachal Pradesh, presently consisting 3 Districts, mentioned below :

Mandi, Kullu, Kevlong

19. AGM/DGM, Circle Office, Jammu, Punjab National Bank, High Land Tower Rail Head Complex, Jammu-180012

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Jammu, in the State of J and K, presently consisting 19 Districts, mentioned below :

Jammu, Kathua, Samba, Poonch, Rajouri, Doda, Reasi, Ramban, Udhampur, Srinagar, Anantnag, Kulgam, Pulwama, Badgam, Barmulla, Kupwara, Lein, Ganderbal, Bandipora.

20. AGM/DGM, Circle Office, Ranchi, Punjab National Bank, Bagrai Market, Main Road Ranchi-834001

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Ranchi, in the State of Jharkhand, presently consisting 24 Districts, mentioned below :

Ranchi, East Singhbhum, West Singhbhum, Saraikela, Bokaro, Dhanbad, Palamu, Latchar, Garhwa, Giridih, Hazaribagh, Chatra, Lohardaga, Godda, Deoghar, Dumka, Gumla, Jamatra, Khunti, Koderma, Pakur, Ramgarh, Sahebgang, Simdega.

21. AGM/DGM, Circle Office, Bangalore, Punjab National Bank, 26-27 M.G Road, Raheja Towers, Bangalore-560001

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Bangalore, in the State of Karnataka, presently consisting 19 Districts, mentioned below :

(1)	(2)	(3)
		Bangalore, Ramnagara, Belgaum, Bidar, Bijapur, Dakshin Kannada, Dharwad, Davangere, Gadag, Gulbarga, Hassan, Kolar, Mandya, Mysore, North Kannada, Shimoga, Tumkur, Udupi, Bellari.
22. AGM/DGM, Circle Office, Kozhikode, Punjab National Bank, Shatabadi Bhawan, Mini Bypass Road, PO. AA Govindpuram, Kozhikode-673016		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Kozhikode, in the State of Kerala, presently consisting 6 Districts, mentioned below : Kannaur, Kasargod, Kozhikode, Malapuram, Palakkad, Wyanad.
23. AGM/DGM, Circle Office Bhopal, Punjab National Bank, Bhopal, Shikharvart Bhawan, Press Complex Hoshangabad Road, Bhopal-462201		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Bhopal, in the State of Madhya Pradesh, presently consisting 12 Districts, mentioned below : Betul, Bhopal, Datia, Hoshangabad, Harda, Sehore, Vidisha, Gwalior, Morena, Sheopur, Risen, Bhind.
24. AGM/DGM/Circle Office, Indore, Punjab National Bank, Indore 20, Sneh Nagar, Indore-520001		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Indore, in the State of Madhya Pradesh, presently consisting 17 Districts, mentioned below : Indore, Badhwani, Khargone, Mandsaur, Neemuch, Rajgarh, Guna, Ashok Nagar, Khandwa, Burhanpur, Ratlam, Shajapur, Shivpuri, Ujjain, Dewas, Dhar, Jhabua.
25. AGM/DGM, Circle Office, Jabalpur, Punjab National Bank, Jabalpur, 1227, Naper Town, Jabalpur-482001.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Jabalpur, in the State of Madhya Pradesh, presently consisting 15 Districts, mentioned below : Balaghat, Chhatarpur, Chhindwara, Dindore, Damoh, Jabalpur, Katni, Mandia, Narsinghpur, Rewa, Seoni, Sagar, Satna, Sidhi, Singrauli.
26. AGM/DGM, Circle Office, Mumbai, Punjab National Bank, Mumbai, Cuffe Parade, 7th floor, Maker Towar F. Mumbai-400005.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Mumbai, in the State of Maharashtra, presently consisting 3 Districts, mentioned below : Mumbai Suburban, Thane, Raigad.
27. AGM/DGM, Circle Office, Nagpur, Punjab National Bank, PNB House, Kingsway, Nagpur-440001.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Nagpur, in the State of Maharashtra, presently consisting 16 Districts, mentioned below : Akola, Amravati, Buldhana, Chandrapur, Gondia, Jalgaon, Nagpur, Nanded, Wardha, Yavatmal, Latur, Pabhani, Bhandara, Gadchiroli, Hingoli, Washim.
28. AGM/DGM, Circle Office, Pune, Punjab National Bank, Arora Towers Meznine Floor, 9 Meladine Road, Pune Camp Pune-411001.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Pune, in the State of Maharashtra, presently consisting 17 Districts, mentioned below : Pune, Ahmednagar, Aurangabad, Dhulia, Kolhapur, Nasik,

(1)	(2)	(3)
29. AGM/DGM, Circle Office, Guwahati, Punjab National Bank, Neelgiri Maintion, Bhangadhar G.S. Road, Guwahati.	Sangli, Solapur, Ratnagiri, Sindudurg, Satara, Nandurbar, Beed, Osmanabad, Jalna, North Goa, South Goa.	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Guwahati, in the State of Assam, Meghalaya, Manipur, Tripura, Nagaland, Mizoram, presently consisting 24 Districts, mentioned below :
30. AGM/DGM, Circle Office, Bhubaneshwar, Punjab National Bank, 4th Floor, Deendayal Bhawan, Ashok Nagar, Janpath, Bhubaneshwar. Orissa-751009.	Barpeta, Bongaigaon, Cachar, Dibrugarh, Goleghat, Jorhat, Kamrup, Karimganj, Nalbari, Darrang, Nagaon, Tinsukia, Sonitpur, East Khasi Hills, Ri-Bhoi, Morigaon, Dhubri, Dinapur, Aizawl, Goalpara, Imphal West, Papumpare, Sibsagar, West Tripura	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Bhubaneshwar, in the State of Orissa, presently consisting 24 Districts, mentioned below :
31. AGM/DGM, Circle Office, Amritsar, Punjab National Bank, Maiqil Yard Road, Opposite St. Francers School, Amritsar-143001.	Anugul, Balasore, Bargarh, Bhadrak, Cuttack, Dhenkanal, Gajapati, Ganjam, Jajpur, Jharsuguda, Jagat Singhpur, Keonjhar, Khurda, Mayurbhanj, Nayagarh, Puri, Kendrapara, Sambalpur, Sundergar, Kalahandi, Rayagada, Kandhamala, Bolangir, Sonapur.	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Amritsar, in the State of Punjab, presently consisting 2 Districts, mentioned below :
32. AGM/DGM, Circle Office, Hoshiarpur, Punjab National Bank, Hoshiarpur, Jalandhar Road, Hoshiarpur-146001.	Amritsar, Taran Taran.	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Hoshiarpur, in the State of Punjab, presently consisting 2 Districts, mentioned below :
33. AGM/DGM, Circle Office, Jalandhar, Punjab National Bank, Civil Lines, Jalandhar-144004.	Hoshiarpur, Nawashahar.	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Jalandhar, in the State of Punjab, presently consisting 1 Districts, mentioned below :
34. AGM/DGM, Circle Office, Bathinda, Punjab National Bank, Bathinda, Kikar Bazar, Bathinda-151001.	Jalandhar.	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Bathinda, in the State of Punjab, presently consisting 5 Districts, mentioned below :
35. AGM/DGM, Circle Office, Ludhiana, Punjab National Bank, Firoze Gandhi Market, Pakhowal Road, Ludhiana-141001.	Bathinda, Barnala, Firozpur, Faridkot, Muktsar.	Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Ludhiana, in the State of Punjab, presently consisting 2 Districts, mentioned below :
36. AGM/DGM, Circle Office, Jaipur, Punjab National	Ludhiana, Moga.	Premises belonging to or taken on lease by or on behalf of

(1)	(2)	(3)
Bank, Jaipur, PNB House, 2 Nehru Place, Tonk Road, Jaipur-302015.		Punjab National Bank within the administrative control of Circle Office, Jaipur, in the State of Rajasthan, presently consisting 7 Districts, mentioned below : Jaipur, Dausa, Tonk, Kota, Bundhi, Baran, Jhalawar.
37. AGM/DGM, Circle Office, Bharatpur, Punjab National Bank, Bharatpur, PNB House, Super Bazar, Bharatpur-302001		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Bharatpur, in the State of Rajasthan, presently consisting 4 Districts, mentioned below : Bharatpur, Dholpur, Sawai Madhopur, Karauli.
38. AGM/DGM, Circle Office, Jodhpur, Punjab National Bank, Jodhpur, 802, 1st Floor, Chopasini Road, Jodhpur-302003.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Jodhpur, in the State of Rajasthan, presently consisting 15 Districts, mentioned below : Ajmer, Banswara, Barmer, Bhilwara, Chittorgarh, Dungarpur, Jaisalmer, Jalore, Jodhpur, Nagore, Pali, Pratappgarh, Rajasmand, Sirohi, Udaipur.
39. AGM/DGM, Circle Office, Sriganganagar, Punjab National Bank, Sriganganagar, PNB House, Meera Marg, Jawaharnagar, Sriganganagar-335001.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Sriganganagar, in the State of Rajasthan, presently consisting 5 Districts, mentioned below : Bikaner, Churu, Jhunjhunu, Hanumangarh, Sriganganagar.
40. AGM/DGM, Circle Office, Chennai, Punjab National Bank, Chennai, IZO Royala Towers Third Floor, New No. 158, Salai Chennai-600002.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Chennai, in the State of Tamilnadu, presently consisting 7 Districts, mentioned below : Chennai, Kanchipuram, Pondicherry, Tiruvallur, Vellore, Villupuram, Tiruvanamalai.
41. AGM/DGM, Circle Office, Trichy, Punjab National Bank, Trichy, PNB House, BHEL Kailashpuram, Tanjore Road, Trichy-620014.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Trichy, in the State of Tamilnadu, presently consisting 26 Districts, mentioned below : Ariyalur, Coimbatore, Cuddalore, Dindigul, Erode, Kanyakumari, Karur, Madurai, Nagapatinam, Namakkal, Nilgiris, Pudukottai, Ramanathapuram, Salem, Sivaganga, Thanjavur, Theni, Thirunelveli, Tiruvarur, Trichy, Tuticorin, Virudunagar, Dharampuri, Krishnagiri, Perambalur, Tirupur.
42. AGM/DGM, Circle Office, Agra, Punjab National Bank, Agra, 1-2, Raghunath Nagar, M.G. Road, Agra-282002.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Agra, in the State of Uttar Pradesh, presently consisting 9 Districts, mentioned below : Agra, Etah, Firozabad, Mainpuri, Mathura, Etawah, Hathras, Kasiram Nagar, Farrukhabad.
43. AGM/DGM, Circle Office, Bareilly, Punjab National Bank, Bareilly, 156, Civil Lines, Station Road, Bareilly-243001.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Bareilly, in the State of Uttar Pradesh, presently consisting 6 Districts, mentioned below :

(1)

(2)

(3)

44. AGM/DGM, Circle Office, Bulandshahr, Punjab National Bank, Bulandshahr, PNB House, Yamunapuram, Bulandshahr-203001.

45. AGM/DGM, Circle Office, Jhansi, Punjab National Bank, Kanpur Road, Jhansi-284001.

46. AGM/DGM, Circle Office, Lucknow, Punjab National Bank, Lucknow, 94, M.G. Road, Lucknow-226001.

47. AGM/DGM, Circle Office, Gorakhpur, Punjab National Bank, Gorakhpur, Alladpur Opposite Tulsi Inter College, Gorakhpur-273001.

48. AGM/DGM, Circle Office, Varanasi, Punjab National Bank, Varanasi, S-20/54-D, The Mall, Canady Road, Varanasi Cantt.-221002.

49. AGM/DGM, Circle Office, Kanpur, Punjab National Bank, Kanpur, 59/29, Birhana Road, Kanpur-206001.

50. AGM/DGM, Circle Office, Meerut, Punjab National Bank, Meerut, East Kaushambi Road, Meerut-260001.

51. AGM/DGM, Circle Office, Moradabad, Punjab National Bank, Moradabad, Civil Lines, Moradabad-244001.

Bareilly, Budaun, Lakhimpur Kheri, Pilibhut, Shahjahanpur, Hardoi.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Bulandshahr, in the State of Uttar Pradesh, presently consisting 2 Districts, mentioned below :

Bulandshahr, Aligarh.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Jhansi, in the State of Uttar Pradesh, presently consisting 7 Districts, mentioned below :

Jhansi, Lalitpur, Mahoba, Banda, Chitrakoot, Hamirpur, Jalaun.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Lucknow, in the State of Uttar Pradesh, presently consisting 5 Districts, mentioned below :

Lucknow, Barabanki, Sitapur, Raebareli, Chhatrapati Sahu Ji Maharaj Nagar.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Gorakhpur, in the State of Uttar Pradesh, presently consisting 5 Districts, mentioned below :

Gorakhpur, Deoria, Maharajganj, Kushinagar, Sant Kabir Nagar.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Varanasi, in the State of Uttar Pradesh, presently consisting 13 Districts, mentioned below :

Allahabad, Azamgarh, Kaushambi, Ballia, Bhadohi, Chandaul, Ghazipur, Jaunpur, Mau, Mirzapur, Pratapgarh, Sonbhadra, Varanasi.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Kanpur, in the State of Uttar Pradesh, presently consisting 6 Districts, mentioned below :

Fatehpur, Auriya, Kannauj, Kanpur City, Kanpur Dehat, Unnao.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Meerut, in the State of Uttar Pradesh, presently consisting 3 Districts, mentioned below :

Baghpat, Ghaziabad, Meerut.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Moradabad, in the State of Uttar Pradesh.

(1)	(2)	(3)
		presently consisting 4 Districts, mentioned below : Bijnor, Moradabad, Jyotiba Phule Nagar, Rampur.
52. AGM/DGM, Circle Office, Muzaffarnagar, Punjab National Bank, Muzaffarnagar, 68 Kumbal Wala Bagh, Muzaffarnagar-251001.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Muzaffarnagar, in the State of Uttar Pradesh, presently consisting 2 Districts, mentioned below : Saharanpur, Muzaffarnagar.
53. AGM/DGM, Circle Office, Dehradun, Punjab National Bank, Dehradun, PNB House, Paltan Bazar, Dehradun-248001.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Dehradun, in the State of Uttarakhand, presently consisting 3 Districts, mentioned below : Dehradun, Uttarkashi, Tehri.
54. AGM/DGM, Circle Office, Hardwar, Punjab National Bank, Hardwar, PNB House, Sector-4, BHL Complex, Hardwar.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Hardwar, in the State of Uttarakhand, presently consisting 4 Districts, mentioned below : Hardwar, Chamoli, Pauri, Rudrapur.
55. AGM/DGM, Circle Office, Kashipur, Punjab National Bank, Kashipur, Bazar Road, Kashipur-244713.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Kashipur, in the State of Uttarakhand, presently consisting 6 Districts, mentioned below : Almora, Nainital, Udham Singh Nagar, Pithoragarh, Bageshwar, Champawat.
56. AGM/DGM, Circle Office, Kolkata, Punjab National Bank, Kolkata, 4th Floor, APJ House, 15, Park Street, Kolkata-700016.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Kolkata, in the State of West Bengal, presently consisting 5 Districts, mentioned below : Kolkata, 24 Parganas (South), 24 Parganas (North), Howrah, South Andaman (Port Blair).
57. AGM/DGM, Circle Office, Burdwan, Punjab National Bank, Burdwan, Fancy Market Complex, Burdwan-713101.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Burdwan, in the State of West Bengal, presently consisting 12 Districts, mentioned below : Burdwan, Bankura, Darjeeling, Birbhum, Malda, Dakshin Dinajpur, Hoogly, Jalpaiguri, Murshidabad, Uttar Dinajpur, Nadia, Gangtok.
58. AGM/DGM, Circle Office, Midnapore, Punjab National Bank, Midnapore, Vidyasagar Road, Batala Chowk, Midnapore-721001		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Midnapore, in the State of West Bengal, presently consisting 3 Districts, mentioned below : West Midnapore, East Midnapore, Purulia.
59. AGM/DGM, Circle Office, South Delhi, Punjab National Bank, New Delhi.		Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office South Delhi, in the State of Delhi, Haryana, presently consisting 7 Districts, mentioned below :

(1)

(2)

(3)

60. AGM/DGM, Circle Office, Faizabad, Punjab National Bank, Faizabad Raidganj, Devkali Road, Acharya Narendra Dev Nagar, Faizabad-224001 (U.P.)
61. AGM/DGM, Circle Office, Kapoorthala, Punjab National Bank, Kapoorthala, PNB House, Satya Narain Mandir Road, Kapoorthala-144601.
62. AGM/DGM, Circle Office, Patiala, Punjab National Bank, Patiala Karam Complex, Sirhind Road, Patiala-147001 (Punjab).
63. AGM/DGM, Circle Office, Kurukshetra, Punjab National Bank, Kurukshetra; Chhata Complex, Pipili Road, Kurukshetra-136118 (Haryana)
64. AGM/DGM, Circle Office, Alwar Punjab National Bank, Alwar Harsil Tower, 29, Naru Marg, Hawai Adda Road, Alwar-301001 (Rajasthan)
65. AGM/DGM, Circle Office, Ernakulam, Punjab National Bank, Ernakulam, 40/1461 Market Road, Ernakulam-682011.

South Delhi, New Delhi, South-West Delhi, Gurgaon, Palwal, Faridabad, Mewat.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Faizabad, in the State of Uttar Pradesh, presently consisting 9 Districts, mentioned below :

Basti, Siddarthnagar, Balrampur, Ambedkar Nagar, Sultanpur, Bahraich, Faizabad, Gonda, Sravasti

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Kapoorthala, in the State of Punjab, presently consisting 2 Districts, mentioned below :

Gurdaspur, Kapoorthala

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Patiala, in the State of Punjab, presently consisting 6 Districts, mentioned below :

Sangrur, Fatehgarh Sahib, Ropar, Mohali, Patiala, Mansa.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Kurukshetra, in the State of Haryana, presently consisting 4 Districts, mentioned below :

Kaithal, Kurukshetra, Yamunagar, Jind.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Alwar, in the State of Rajasthan, presently consisting 2 Districts, mentioned below :

Alwar, Sikar.

Premises belonging to or taken on lease by or on behalf of Punjab National Bank within the administrative control of Circle Office Ernakulam, in the State of Kerala, presently consisting 8 Districts, mentioned below :

Alapuzha, Ernakulam, Idukki, Kottayam, Pathanmitha, Quilon/Kollam, Trichur, Trivendram.

[F. N. No. 4/1/2012-BOA]

M. M. DAWLA, Under Secy.

New Delhi, the 13th September, 2012

S.O. 2905.—In continuation of the Notification dated 22-9-2010, in exercise of the powers conferred by clause (e) of sub-section (1) of Section 6 of the National Housing Bank Act, 1987 (53 of 1987), the Central Government hereby appoints Smt. Vijaya Srivastava, Joint Secretary to the Government of India, Rural Housing Wing, Department of Rural Development as a Director on the Board of Directors of National Housing Bank in place of Shri Sanjay Kumar Rakesh, Joint Secretary (SA) to the Government of India, Ministry of Rural Development, with immediate effect and until further orders.

[F. No. 24/17/2010-II-II]

RAMAN KUMAR, GAUR, Under Secy.

नई दिल्ली, 13 सितम्बर, 2012

का. आ. 2905.—दिनांक 22-9-2010 की अधिसूचना के अनुक्रम में, राष्ट्रीय आवास बैंक अधिनियम, 1987 (1987 का 53) की धारा 6 की उप-धारा (1) के खण्ड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्रीमती विजया श्रीवास्तव, संयुक्त सचिव, भारत सरकार, ग्रामीण आवास विंग, ग्रामीण विकास विभाग, को श्री संजय कुमार राकेश, संयुक्त सचिव (एसए), भारत सरकार, ग्रामीण विकास मंत्रालय, के स्थान पर तत्काल प्रभाव से और अगले आदेश होने तक राष्ट्रीय आवास बैंक के निदेशक मण्डल में निदेशक के रूप में नियुक्त करती है।

[फा. सं. 24/17/2010-आईएफ-II]

रमण कुमार गौड़, अवर सचिव

अन्तरिक्ष विभाग

बेंगलूर, 12 सितम्बर, 2012

का. आ. 2906.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में एतद्वारा अन्तरिक्ष विभाग के निम्नलिखित कार्यालय, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

1. इस्ट्रैक भू-केंद्र
पी.ओ.सेक्टर-सी
सीतापुर रोड स्कीम, कुर्सी रोड
लखनऊ -226 021 (उत्तर प्रदेश)
2. इस्ट्रैक भू-केंद्र
अन्तरिक्ष विभाग
डॉली गंज
पोर्ट ब्लेयर -744 103

[फा.सं. 8/1/10/2011-हि.]

एन. पट्टाभि रामन, अवर सचिव

DEPARTMENT OF SPACE

Bangalore, the 12th September, 2012

S. O. 2906.—In pursuance of Sub-rule (4) of the Rule 10 of the Official Language (use for official purpose of the Union) Rule, 1976, the Central Government, hereby notifies the following Offices of the Department of Space, whereof more than 80 per cent staff have acquired the working knowledge of Hindi.

1. ISTRAC Ground Station
P. O. Sector-C
Sitapur Road Scheme, Kursi Road
Lucknow - 226 021 (U.P.)
2. ISTRAC Ground Station
Department of Space
Dolly Ganj
Port Blair - 744 103

[F. No. 8/1/10/2011-H]

N. PATTABHI RAMAN, Under Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 24 फरवरी, 2012

का. आ. 2907.—इस मंत्रालय की दिनांक 19-1-2012 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के बंगलौर सलाहकार पैनल में निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, सदस्यों के रूप में नियुक्त करती है :

क्रम सं. नाम

1. श्री सा. रा. गोविन्दु
2. श्रीमती हेमा चौधरी
3. श्रीमती विजयालक्ष्मी सिंह
4. श्रीमती सी. एम. महालक्ष्मी
5. श्री डी. के. रामाकृष्णा
6. श्री एस. वी. सुरेश
7. श्री एस. मधु कुमार
8. श्री पी. एस. गणेश्वर एतल
9. श्री थॉमस डिसूजा

[फा. सं. 809/4/2011-एफ (सी)]

निरुपमा कोतुरु, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 24th February, 2012

S. O. 2907.—In continuation of this Ministry's Notification of even number, dated 19.01.2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint the following persons as members of the Bangalore Advisory panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier:

Sl. No. Name

1. Shri Sa. Ra. Govindu
2. Smt. Hema Chowdari
3. Smt. Vijayalakshmi Singh
4. Smt. C. S. Mahalakshmi
5. Shri D.K. Ramakrishna
6. Shri S.V. Suresh
7. Shri S. Madhu Kumar
8. Shri P.S. Gnaneshwar Aithal
9. Shri Thomas D'Souza

[F. No. 809/4/2011-F(C)]

NIRUPAMA KOTRU, Director (Films)

नई दिल्ली, 29 मार्च, 2012

का. आ. 2908.—इस मंत्रालय की दिनांक 22-2-2012 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के

चेन्नै सलाहकार पैनल से श्रीमती ए. कमला अनबारासु के नाम को तत्काल प्रभाव से निष्कासित करती है।

[फा. सं. 809/7/2011-एफ (सी)]

निरुपमा कोत्रु, निदेशक (फिल्म)

New Delhi, the 29th March, 2012

S. O. 2908.—In continuation of Ministry's Notification of even number dated 22-2-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government hereby removes the name of Smt. A. Kamala Anbarasu from the Chennai Advisory Panel of Central Board of Film Certification with immediate effect.

[F. No. 809/7/2011 (FC)]

NIRUPAMA KOTRU, Director (Films)

नई दिल्ली, 29 मार्च, 2012

का. आ. 2909.—इस मंत्रालय की दिनांक 22-2-2012 की सगसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र (प्रमाणन) नियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के चेन्नै सलाहकार पैनल में निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, सदस्यों के रूप में नियुक्त करती है :

क्रम सं.	नाम
1.	कलाइमामानी वज्रह्वर रथि
2.	कलाइमामानी एम. कुमारीमुथू
3.	श्री गुनानीति अमीरत्न
4.	श्री शिवाशक्ति एस. डी. पांडियन
5.	श्री एन. रामास्वामी
6.	श्री के. एस. रविचन्द्रन
7.	श्री आई. पारान्तामेन
8.	श्री आर. गिरिराजन
9.	श्री पी. नागारत्नम
10.	श्री एम. ए. मुरुगेश
11.	श्री विदुतालाई
12.	श्री जी. श्रीनिवासन
13.	श्रीमती विजया तायान
14.	श्री एस. गोपीनाथ
15.	श्रीमती शंकरावल्ली
16.	श्री हसन मोहम्मद जिनाह

क्रम सं.	नाम
17.	श्री डी. ईलानो
18.	श्री वेला रामामूर्ति
19.	डॉ. एन. एस. के. पदमिनी
20.	श्री टी. एम. राजेंद्रन
21.	श्री आर. आनंद
22.	श्री आर. लक्ष्मी आनंदन
23.	श्री पी. सुरेश कुमार
24.	श्री ईल्लायाराती
25.	श्रीमती पी. महालक्ष्मी
26.	श्री आर. मुरुगेशन
27.	श्री पी.टी. पांडीचेलवन
28.	श्री एम. सेलवन
29.	श्री के. प्रेम कुमार
30.	श्री एम. अरिवुदाई नाम्बी
31.	श्री एस. ए. हिदयातुल्ला
32.	श्री ए. एन. पुरुषोत्तम
33.	श्री त्यागराजन
34.	श्री मुरुगन
35.	श्री एस. अरुमुगापनदिअन
36.	श्री सतीश कुमार
37.	श्री आर. गणेश
38.	श्री पी.वी. मुधाकर
39.	श्री के. सुरेश
40.	श्री एन. वेंत्पुरुगन
41.	श्री एन. मलाईराजा
42.	श्री एम. मोहम्मद जलाउद्दीन
43.	सुश्री बी. कनिगा
44.	श्री धनशेखरन
45.	श्री ए. मंसूर अली
46.	श्री एस. जे. सिमोन बलदेसिंह
47.	श्रीमती टी. शांति
48.	श्री आर. एन. अमृतराजा
49.	श्री एस. वेन्मनी अरूल
50.	श्री ए. वेकटचलम

[फा सं. 809/7/2011-एफ (सी)]

निरुपमा कोत्रु, निदेशक (फिल्म)

New Delhi, the 29th March, 2012

S.O. 2909.—In continuation of Ministry's Notification of even number dated 22-2-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint the following persons as members of Chennai Advisory Panel of Central Board of Film Certification with immediate effect for a period of two years or until further, whichever is earlier :

1. Kalaimamani Vazhuvoor Ravi
2. Kalaimamani M.Kumarimuthu
3. Shri.Gunanithi Amirtham
4. Shri.Sivasakthi S.D.Pandiyan
5. Shri.N.Ramaswamy
6. Shri.K.S.Ravichandran
7. Shri.I.Paranthamen
8. Shri.R.Girirajan
9. Shri.P.Nagarathinam
10. Shri.M.A.Murugesu
11. Shri. Viduthalai
12. Shri.G.Srinivasan
13. Smt. Vijaya Thayanban
14. Shri.S.Gopinath
15. Smt.Sankaravalli
16. Shri.Hassan Mohamed Jinnah
17. Shri.D.Ilango
18. Shri. Vela Ramamoorthy
19. Dr.N.S.K.Padmini
20. Shri T.M.Rajendran
21. Shri.R.Anand
22. Shri R.Lakshmi Anandan
23. Shri P.Suresh Kumar
24. Shri Ilaiyabarati
25. Smt. P.Mahalakshmi
26. Shri. R.Murugesan
27. Shri. P.T.Pandichelvan
28. Shri. M.Selvam
29. Shri.K.Prem Kumar
30. Shri.M.Arivudai Nambi
31. Shri SA.Hidyathulla
32. Shri A.N.Purusotham
33. Shri.Thiyagarajan
34. Shri. Murugan
35. Shri. S.Arumugapandian

36. Shri Sathish Kumar
37. Shri R.Ganesh
38. Shri P.V. Sudakar
39. Shri.K.Suresh
40. Shri.N.Velmurugan
41. Shri N. Malairaja
42. Shri M.Mohamed Jalaudeen
43. Ms. B. Kanniga
44. Shri Dhanasekaran
45. Shri A. Mansoor Ali
46. Shri S. J. Simon Baldesingh
47. Smt. T. Shanthi
48. Shri R.N. Amirtharaja
49. Shri S. Venmani Arul
50. Shri A. Venkatachalam

[F. No. 809/7/2011-F(C)]

NIRUPAMA KOTRU, Director (Films)

नई दिल्ली, 2 अप्रैल, 2012

क्र. आ. 2910.—इस मंत्रालय की दिनांक 16-2-2012 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल में निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, सदस्यों के रूप में नियुक्त करती है :

क्रम सं. नाम

1. श्री पैदी श्रीनिवास राव
2. श्री पेबबिलि रवि कुमार
3. श्री बनाना वेंकटेश्वरलु

[फा. सं. 809/5/2011-एफ (सी)]

निरुपमा कोतुरु, निदेशक (फिल्म)

New Delhi, the 2nd April, 2012

S.O. 2910.—In continuation of Ministry's Notification of even number dated 16-2-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint the following persons as members of Hyderabad Advisory Panel of Central Board of Film Certification with immediate effect for a period of two years or until further orders whichever is earlier:

S.No. Name

1. Shri Paidi Srinivas Rao
2. Shri Pebbili Ravi Kumar
3. Shri Vanama Venkateshwarlu

[F. No. 809/5/2011-F(C)]

NIRUPAMA KOTRU, Director (Films)

नई दिल्ली, 3 अप्रैल, 2012

का. आ. 2911.—इस मंत्रालय की दिनांक 19-1-2012 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के बंगलोर सलाहकार पैनल में निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पैनल के सदस्य के रूप में नियुक्त करती है :

क्रम सं. नाम

1. श्रीमती श्यामला भंडारी
2. श्रीमती शशिकला पद्मानाभन
3. श्रीमती तारा
4. श्री एच. मोहम्मद गौसे

[फा. सं. 809/4/2011-एफ (सी)]

निरुपमा कोतुरु, निदेशक (फिल्म)

New Delhi, the 3rd April, 2012

S.O. 2911.—In continuation of Ministry's Notification of even number dated 19-1-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint the following persons as members of Bangalore Advisory Panel of Central Board of Film Certification with immediate effect for a period of two years or until further order, whichever is earlier:

S.No. Name

1. Smt. Shayamala Bhandari
2. Smt. Shashikala Padmanabha
3. Smt. Tara
4. Shri H. Mohammad Ghouse

[F. No. 809/4/2011-F(C)]

NIRUPAMA KOTRU, Director (Films)

नई दिल्ली, 4 अप्रैल, 2012

का. आ. 2912.—इस मंत्रालय की दिनांक 22-2-2012 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों

का प्रयोग करते हुए केंद्रीय सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के चेन्नै सलाहकार पैनल में निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, सदस्यों के रूप में नियुक्त करती है :

क्रम सं. नाम

1. श्री एन. मुरुगन
2. श्री वी. वेदागिरि

[फा. सं. 809/7/2011-एफ (सी)]

निरुपमा कोतुरु, निदेशक (फिल्म)

New Delhi, the 4th April, 2012

S. O. 2912.—In continuation of Ministry's Notification of even number dated 22-2-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint the following persons as members of Chennai Advisory Panel of Central Board of Film Certification with immediate effect for a period of two years or until further order whichever is earlier:

S. No. Name

1. Shri N. Murugan
2. Shri V. Vedagiri

[F. No. 809/7/2011-F(C)]

NIRUPAMA KOTRU, Director (Films)

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 7 सितम्बर, 2012

का.आ. 2913.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार की वाणिज्य मंत्रालय, (वाणिज्य विभाग) की अधिसूचना सं. का. आ. 2744, तारीख 2 जुलाई 1983 में निम्नलिखित और संशोधन करती है, अर्थात् :-

उक्त अधिसूचना से उपाबद्ध सारणी के स्तंभ 1 में, "वित्तीय सलाहकार और मुख्य लेखा अधिकारी" शब्दों के स्थान पर "विशेष कार्य अधिकारी (मेला सेवाएं-1 और विपणन)" शब्द, कोष्ठक और अंक रखे जाएंगे।

[फा. सं. 1(1)/2006-टीपी]

आर. के. ओझा, निदेशक

टिप्पण :—मूल अधिसूचना भारत के राजपत्र में, का.आ. सं. 2744(अ) तारीख 2 जुलाई, 1983 द्वारा प्रकाशित की गई थी और तत्पश्चात् का.आ. सं. 1754, तारीख 30 जून, 1990, का.आ.

1304 (अ), तारीख 14 अगस्त, 2006 और का.आ. 4711, तारीख 9 दिसम्बर, 2006 द्वारा संशोधित की गई थी।

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 7th September, 2012

S. O. 2913.— In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Commerce, (Department of Commerce) number S.O. 2744, dated the 2nd July, 1983, namely :-

In the table appended to the said notification, in column 1, for the words "Financial Advisor and Chief Accounts Officer" brackets and letters, the words "Officer on Special Duty(Fair Services-I and Marketing)" shall be substituted.

[F. No.1 (1)/2006-TP]

R. K. OJHA, Director

Note: The principal notification was published in the Gazette of India, vide number S.O. 2744, dated the 2nd July, 1983 and subsequently was amended vide numbers S.O.1754, dated the 30th June, 1990; S.O.1304(E), dated 14th August, 2006 and S.O.4711, dated the 9th December, 2006.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 3 सितम्बर, 2012

का.आ. 2914.— भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक-का शीर्षक	भामा.सं./भाग/खण्ड/वर्ष
(1)	(2)	(3)	(4)	(5)	(6)
1.	3857177	31-7-2012	भगवती इलेक्ट्रीकल 257, गुरु गोबिन्द सिंह इण्डस्ट्रीयल इस्टेट, वेस्टर्न एक्सप्रेस हाइवे के सामने गोरेगांव -पूर्व मुंबई-400063 महाराष्ट्र	घरेलू और समान प्रयोजनों के लिए स्विचे	भा. मा. 3854:1997

[सं. केंद्रीय प्रमाणन विभाग/13:11]

ए. एस. जामखिंडीकर, वैज्ञानिक 'एफ' एवं प्रमुख (एम डी एम-III)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 3rd September, 2012

S. O. 2914.— In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address (factory) of the party	Product	IS No./Part/ Sec/Year
(1)	(2)	(3)	(4)	(5)	(6)
1.	3857177	31-7-2012	Bhagwati Electrical 257, Guru Govind Singh Indl. Estate, Opp- Western Express Highway Goregaon- East Mumbai-400063, Maharashtra	Switches for domestic and similar purposes	IS 3854 : 1997

[No. CMD/13:11]

A. S. JAMKHINDIKAR, Scientist 'F' & Head (MDM-III)

नई दिल्ली, 3 सितम्बर, 2012

का.आ. 2915.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिये गए हैं, वे रद्द कर दिए गए हैं :—

अनुसूची

क्र. सं.	लाइसेंस संख्या	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
(1)	(2)	(3)	(4)	(5)
1.	3774072	क्रिश्ना इण्डस्ट्रीज, ब्लॉक सं. 47, पहला माला, अरमान शॉपी के नजदीक, रोड सं.10, मोतीलाल नगर सं. 1, गोरेगांव -पश्चिम, मुंबई -400104	भा मा 3854:1997 घरेलू और समान प्रयोजनों के लिए स्विचें	7-8-2012

[सं. केंद्रीय प्रमाणन विभाग/13:13]

ए. एस. जामखिंडीकर, वैज्ञानिक 'एफ' एवं प्रमुख (एम डी एम-III)

New Delhi, the 3rd September, 2012

S.O. 2915.—In pursuance of sub-regulation (6) of the Regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each :—

SCHEDULE

Sl. No.	Licence No.	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the Licence	Date of Cancellation
(1)	(2)	(3)	(4)	(5)
1.	3774072	Krishna Industries Block No. 47, 1st Floor, Near Arman Shoppi, Road No. 10, Motilal Nagar No. 1, Goregaon west Mumbai -400104, Maharashtra	IS 3854 : 1997 Switches for Domestic & Similar Purposes	7-8-2012

[No. CMD/13:13]

A. S. JAMKHINDIKAR, Scientist 'F' & Head (MDM-JII)

नई दिल्ली, 5 सितम्बर, 2012

का.आ. 2916.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उप-नियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष /माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं.	भाग	खण्ड	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3858179	6-8-2012	हक्कु क्रिएशन गाला नं. 11, नीलकण्ठ इण्ड. इस्टेट विलेज-धामनी, तालुका-खालापूर जिला: रायगढ़-410202	घूर्णनात्मक मोल्डित पॉलिथिलीन जल संग्रहण टैंकियां	12701			1996
2.	3861269	3-8-2012	देशाई कॉन्क्रीट कास्टिंग सर्वे नं. 3/1, पीलीम विलेज, दलित कंक्रीट श्रेणी भुमिका टेम्पल रोड, उसागो -टीस्क, उत्तर गोवा, गोवा-403401	खड़्जे के लिए पूर्व	15658			2006

[सं. केंद्रीय प्रमाणन विभाग/13:11]

टी. कलैवानन, वैज्ञानिक 'एफ' एवं प्रमुख (प्रमाणन विभाग-II)

New Delhi, the 5th September, 2012

S.O. 2916.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	CML No.	GOL Date	Licensee Name and Address	IS Product	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3858179	6-8-2012	Hakku Creations Gala No. 11, Neelkanth Indl. Estate, Taluka Khalapur, Village Dhamni Distt: Raigarh-410202	Rotational Moulded Polyethylene Water Storage Tanks	12701	-	-	1996
2.	3861269	3-8-2012	Desai Concrete Casting Survey No.3/1, Pilliem Village Bhumika Temple Road, Usgao -tisk, Sangeum, South Goa Goa - 403401	Precast Concrete Blocks for Paving	15658	-	-	2006

[No. CMD/13:11]

T. KALAIIVANAN, Scientist 'F' & Head (MDM-II)

नई दिल्ली, 5 सितम्बर, 2012

का.आ. 2917.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं :—

अनुसूची

क्र. सं.	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम व पता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
(1)	(2)	(3)	(4)	(5)
1.	7143259	भारती फायर इंजिनर्स प्लॉट नं. ए 427, टी.टी.सी.इण्ड. एरिया, एमआयडीसी, म्हापे बस डिपो के नजदीक, नवी मुंबई, जिला : थाणे 400709	सुवाहय अग्नि शामक यांत्रिक झाग किस्म	2-8-2012
2.	7296486	इन्टाइम फायर अप्लाइंसेस प्रा.लि. डी-24/6,, टी.टी.सी.इण्ड.एरिया, एमआयडीसी, तुर्भे, नवी मुंबई-400705	शुष्क पावडर किस्म सुवाहय अग्नि शामक (संग्रहित दाब)	2-8-2012
3.	7515270	महावीर इण्डस्ट्रिज, 30और 130, आनंदराज इण्ड. इस्टेट, एशियन पेन्ट के पीछे, सोनापूर लेन, भांडुप-400078	शुष्क पावडर किस्म सुवाहय अग्नि शामक (संग्रहित दाब)	2-8-2012

[सं. केंद्रीय प्रमाणन विभाग/13:11]

टी. कलैवानन, वैज्ञानिक 'एफ' एवं प्रमुख (प्रमाणन विभाग-II)

New Delhi, the 5th September, 2012

S. O. 2917.—In pursuance of sub-regulation (6) of the Regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988 of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each :—

SCHEDULE

Sl. No.	Licence No. CML/L-No.	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date of Cancellation
(1)	(2)	(3)	(4)	(5)
1.	7143259	Bharati Fire Engineers Plot No. A 427 TTC Industrial Area, MIDC Mahape, Near Mahape Bus Depot, Navi Mumbai, Distt : Thane - 400709	Portable Fire Extinguisher Mechanical foam type	2-8-2012
2.	7296486	Intime Fire Appliances Pvt. Ltd. D-24/6, TTC Indl. Area, MIDC, Turbhe Navi Mumbai, 400705	Portable Fire Extinguisher Dry Powder Type (Constant pressure)	2-8-2012
3.	7515270	Mahavir Industries 30 & 130, Anandraj Indl. estate, Behind Asian Paints, Sonapur Lane, Bhandup- 400078	Portable Fire Extinguisher Dry Powder Type (Constant Pressure)	2-8-2012

[No. CMD/13:11]

T. KALAIVANAN, Scientist 'F' & Head (MDM-II)

नई दिल्ली, 5 सितम्बर, 2012

का. आ. 2918.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उप-नियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा मा संख्या	भाग	अनुभाग	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3796082	26-7-2012	मेसर्स संपदा एग्रो इंडस्ट्रीज गट सं. 576/1 मालेगांव तालुका-बारशी जिला - सोलापुर महाराष्ट्र	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004
2.	3856074	27-7-2012	मेसर्स माता मोहतादेवी मिल्क एंड मिल्क प्रॉडक्ट्स प्रा.लि. गट नं. 120/4 जावखेडे खलासा तालुका पाथार्डी जिला- अहमदनगर महाराष्ट्र 414505	मलाई निकाला हुआ दूध पावडर-विशिष्ट-भाग I : मानक श्रेणी	13334	01	-	1998
3.	3816668	30-7-2012	मेसर्स मौर्या बेवरेजेज प्रा.लि. प्लॉट नं. डी-60 एमआईडीसी, सूपा तालुका पारनेर जिला अहमदनगर महाराष्ट्र	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा) - विशिष्ट	14543	-	-	2004
4.	3857480	3-8-2012	मेसर्स हेमाटिक मोटर्स प्रा.लि. बी-67/68 एमआईडीसी तासवडे तालुका कराड जिला सतारा महाराष्ट्र 415109	तीन फेजीय प्रेरण मोटर्स	325	-	-	1996
5.	3857985	30-7-2012	मेसर्स एपल स्पॉन्ज एंड पावर लि. सी-4, फाइव स्टार एमआईडीसी इंड. एरिया कागल जिला कोल्हापुर महाराष्ट्र 418216	कांक्रीट प्रबलन के लिए उच्च सामर्थ्य विकसित इस्पात की छड़ें और तारें	1786	-	-	2008

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
6.	3839680	6-8-2012	मेसर्स वॉटरवेज इंडस्ट्रीज 5-28-119/पी/2 स्टैंडर्ड सिल्क मिल्स कंपाउंड वेस्ट ऑफ ओवर ब्रिज पैटन रोड जिला औरंगाबाद महाराष्ट्र 431005	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा) - विशिष्ट	14543	-	-	2004
7.	3750563	1-8-2012	मेसर्स तारा हेल्थकेयर गट सं. 926 कारंदी तालुका शिरूर जिला पुणे महाराष्ट्र 412208	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा) - विशिष्ट	14543	-	-	2004
8.	3861774	22-8-2012	मेसर्स कमल पॉलीप्लास्ट स. नं. 2/6/1 मिलकत नं. 128 वडाचीवाडी, तालुका हवेली जिला पुणे महाराष्ट्र 411060	पेयजल आपूर्ति के लिए उच्च घनत्व के पॉलीइथाइलीन पाइप्स	4984	-	-	1995
9.	3861875	13-8-2012	मेसर्स कनकधारा स्टील रि-रोलिंग मिल प्लॉट नं एफ-24 और एफ-29 अतिरिक्त एमआईडीसी फेज II जिला जालना महाराष्ट्र 431203	कांक्रीट प्रबलन के लिए उच्च सामर्थ्य विकसित इस्पात की छड़ें और तारें	1786	-	-	2008

[सं. सीएमडी/13:11]

बी. एम. हनीफ, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 5th September, 2012

S.O. 2918.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3796082	26-7-2012	M/s. Sampada Agro Industries Gat No. 576/1 Malegaon	Packaged drinking water (Other than packaged natural	14543	-	-	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
			Taluka Barshi District Solapur Maharashtra	mineral water)				
2.	3856074	27-7-2012	M/s. Mata Mohatadevi Milk & Milk Products Pvt Ltd Gat No. 120/4 Javkhehe Khalasa Taluka Pathardi District Ahmednagar Maharashtra 414505	Skimmed milk powder Specification -Part 1 Standard grade	13334	01	-	1998
3.	3816668	30-7-2012	M/s. Morya Beverages Pvt. Ltd. Plot No. D-60 Midc Supa Taluka Parner District Ahmednagar Maharashtra	Packaged drinking water (Other than packaged natural mineral water)	14543	-	-	2004
4.	3857486	3-8-2012	M/s. Hematic Motors Pvt. Ltd. B67/68 Midc Taswade Taluka Karad District Satara Maharashtra 415109	Three phase induction motors	325	-	-	1996
5.	3857985	30-7-2012	M/s. Apple Sponge & Power Ltd. C-4, Five Star MIDC Indl. Area Kagal District Kolhapur Maharashtra 418216	High strength deformed steel bars and wires for concrete reinforcement	1786	-	-	2008
6.	3839680	6-8-2012	M/s. Waterways Industries 5-28-119/P/2 Standard Silk Mills Compound West of Over Bridge Paithan Road District Aurangabad Maharashtra 431005	Packaged drinking water (Other than packaged natural mineral water)— Specification	14543	-	-	2004
7.	3750563	1-8-2012	M/s. Tara Healthcare Gat No. 926 Karandi Taluka Shirur District Pune Maharashtra- 412208	Packaged drinking water (Other than packaged natural mineral water)— Specification	14543	-	-	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
8.	3861774	22-8-2012	M/s. Kamal Polyplast S.No. 2/6/1 Milkat No. 128 Wadachiwadi Taluka Haveli District Pune Maharashtra 411060	High density polyethylene pipes for potable water supplies	4984	-	-	1995
9.	3861875	13-8-2012	M/s. Kanakdhara Steel Re-Rolling Mill Plot No. F-24 & F-29 Addl. MIDC Phase II District Jalna Maharashtra 431203	High strength deformed steel bars and wires for concrete reinforcement	1786	-	-	2008

[No. CMD/13:11]

B. M. HANEEF, Scientist 'F' & Head

नई दिल्ली, 7 सितम्बर, 2012

का. आ. 2919.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 3196 (भाग 3) : 2012 द्रवणीय गैसों के लिये 5 लिटर से अधिक जल क्षमता वाले वेल्डित अल्प कार्बन इस्पात के सिलिंडर भाग 3 परीक्षण पद्धतियां (पाँचवाँ पुनरीक्षण)	जुलाई 2012	तुरंत

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> द्वारा इंटरनेट पर खरीदा जा सकता है।

[संदर्भ एमईडी/जी-2:1]

बी. एम. हनीफ, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 7th September, 2012

S. O. 2919.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standards	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 3196 (Part 3) : 2012 Welded Low Carbon Steel Cylinders Exceeding 5 Litre Water Capacity for Low Pressure Liquefiable Gases, Pt. 3 Methods of Test (Fifth Revision)	July 2012	With immediate effect

Copy of these standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram. On-line purchase of Indian Standard can be made at : <http://www.standardsbis.in>.

[Ref. MED/G-2:1]

B. M. HANEEF, Scientist 'F' & Head

कोयला मंत्रालय

नई दिल्ली, 14 सितम्बर, 2012

का.आ. 2920.—केन्द्रीय सरकार को यह प्रतीत होता है, कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त होने की संभावना है ;

और पूर्वोक्त अनुसूची में वर्णित भूमि के अंतर्गत आने वाले क्षेत्र के ज्यूरि रेखांक संख्या राजस्व /02/2012, तारीख 18 मई, 2012 का निरीक्षण महा प्रबंधक (भूमि और राजस्व), दरभंगा हाउस, सेंट्रल कोलफील्ड्स लिमिटेड, रांची, या महाप्रबंधक, एन.के.क्षेत्र, उपायुक्त, रांची, झारखंड, मुख्य महाप्रबंधक (खोज प्रभाग), केन्द्रीय खान आयोजन एवं डिजाइन इन्स्टीच्यूट लिमिटेड, गोंदवाना पैलेस, कांके रोड, रांची या कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कोलकाता - 700 001 के कार्यालय में किया जा सकता है ;

अतः, अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि से कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है ;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति—

(i) संपूर्ण भूमि या उसके किसी भाग के अर्जन या ऐसी भूमि में या उस पर के किन्हीं अधिकारों के अर्जन के प्रति आक्षेप कर सकेगा; या

(ii) भूमि में के किसी हित के प्रतिकर या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का दावा कर सकेगा; या

(iii) प्रभावहीन हो गई पूर्वक्षण अनुज्ञप्तियों, खनन पट्टों के अधीन अर्जित किये जाने पर अधिकारों के लिए प्रतिकर प्राप्त कर सकेगा और उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट भूमि के कोरों से संग्रहण या अन्य खनिज नमूनों तथा उनके सम्यक् विश्लेषण को तथा किसी अन्य सुसंगत अभिलेख या सामग्रियों की निर्मित से संबंधित सभी मानचित्र, चार्ट और अन्य दस्तावेज परिदत्त कर सकेगा ।

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, महाप्रबंधक, एन.के.क्षेत्र, सेंट्रल कोलफील्ड्स लिमिटेड, रांची, (झारखंड), या महाप्रबंधक, भूमि और राजस्व, सेंट्रल कोलफील्ड्स लिमिटेड, दरभंगा हाउस, रांची-834 029 (झारखंड) को भेजेंगे ।

अनुसूची

के. डी. एच. विस्तार ब्लॉक
जिला-रांची, झारखंड

[रेखांक संख्या राजस्व /02/2012, तारीख 18 मई, 2012]

क्रम सं.	ब्लॉक	ग्राम	थाना	थाना नं.	जिला	क्षेत्र हेक्टर में (लगभग)	क्षेत्र एकड़ में (लगभग)	टिप्पण
1	2	3	4	5	6	7	8	9
1.	क	विश्रामपुर	बुढ़मू	15	रांची	80.06	197.83	भाग
		करकट्टा	बुढ़मू	06	रांची	73.19	180.87	भाग
2.	ख	विश्रामपुर	बुढ़मू	15	रांची	4.96	12.25	भाग
कुल :-						158.21	390.95	
						(लगभग)	(लगभग)	

सीमा वर्णन :

ब्लॉक-क :

- क-ख रेखा बिन्दु 'क' से आरंभ होती है और करकट्टा ग्राम के भाग से हो कर गुजरती है और बिन्दु 'ख' पर मिलती है।
 ख-ग रेखा बिन्दु 'ख' से आरंभ होती है और करकट्टा एवं विश्रामपुर ग्राम के भाग से हो कर गुजरती है और बिन्दु 'ग' पर मिलती है।
 ग-घ रेखा बिन्दु 'ग' से आरंभ होती है और विश्रामपुर एवं बुकबुका ग्राम के भाग के सीमा से गुजरती है और बिन्दु 'घ' पर मिलती है।
 घ-ङ रेखा बिन्दु 'घ' से आरंभ होती है और विश्रामपुर ग्राम के भाग से गुजरती है और बिन्दु 'ङ' पर मिलती है।
 ङ-क रेखा बिन्दु 'ङ' से आरंभ होती है और विश्रामपुर एवं करकट्टा ग्राम के भाग से गुजरती है और बिन्दु 'क' पर मिलती है।

ब्लॉक-ख :

- च-छ रेखा बिन्दु 'च' से आरंभ होती है और विश्रामपुर ग्राम के भाग से गुजरती है एवं बिन्दु 'छ' पर मिलती है।
 छ-ज रेखा बिन्दु 'छ' से आरंभ होती है और विश्रामपुर एवं चुरी ग्राम की सम्मिलित सीमा से गुजरती है एवं बिन्दु 'ज' पर मिलती है।
 ज-च रेखा बिन्दु 'ज' से आरंभ होती है और विश्रामपुर ग्राम से गुजरती है और आरंभिक बिन्दु 'च' पर मिलती है।

[फा. सं. 43015/12/2012-पी.आर.आई.डब्ल्यू.-1]

ए. के. दास, अवर सचिव

MINISTRY OF COAL

New Delhi, the 14th September, 2012

S. O. 2920.—Whereas, it appears to the Central Government that coal is likely to be obtained from the lands in the locality mentioned in the Schedule annexed hereto,

And, whereas, the plan bearing number Rev./02/2012 dated the 18th May, 2012 containing the details of the area described in the aforesaid Schedule can be inspected in the office of the General Manager (Land and Revenue), Darbhanga House, Central Coalfields Limited, Ranchi or General Manager, NK Area or Deputy Commissioner, Ranchi, Jharkhand or in the office of the Chief General Manager (Exploration Division), Central Mine Planning Design Institute, Gondwana Palace, Kanke Road, Ranchi or in the office of the Coal Controller, 1, Council House Street, Kolkata - 700 001

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal from lands described in the aforesaid Schedule;

Any persons interested in the land described in the said Schedule may --

(i) object to the acquisition of the whole or any part of the land, or of any rights in or over such land, or

(ii) claim an interest in compensation if the land or any rights in or over such land, or

(iii) seek compensation for prospecting licences ceasing to have effect, rights under mining leases being acquired, and deliver all maps, charts and other documents relating to the land, collection from the land of cores or other mineral samples and due analysis thereof and the preparation of any other relevant record or materials referred to in sub-section (7) of section 13 of the said Act,

to the office of the General Manager, NK Area, Central Coalfields Limited, Ranchi (Jharkhand) or General Manager, Land and Revenue, Central Coalfields Limited, Darbhanga House, Ranchi-834 029 (Jharkhand), within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE

KDH Extension Block,

District- Ranchi (Jharkhand)

(Plan bearing number Rev./02/2012 dated the 18th May, 2012)

Sl. No.	Block	Village	Thana	Thana number	District	Area in hectares (approximatively)	Area in acres (approximatively)	Remarks
1.	A	Bishrampur	Burmu	15	Ranchi	80.06	197.83	Part
		Karkatta	Burmu	06	Ranchi	73.19	180.87	Part
2.	B	Bishrampur	Burmu	15	Ranchi	4.96	12.25	Part
Total:					158. 21 (approximately)	390. 95 (approximately)		

BOUNDARY DESCRIPTION :—

BLOCK-A:

- A-B Line starts from point 'A' and passes through part village of Karkatta and meets at point 'B'.
- B-C Line starts from point 'B' and passes through part villages of Karkatta and Bishrampur and meets at point 'C'.
- C-D Line starts from point 'C' and passes through part common boundary of villages Bishrampur and Bukbuka and meets at point 'D'.
- D-E Line starts from point 'D' and passes through part village of Bishrampur and meets at point 'E'.
- E-A Line starts from point 'E' and passes through part village of Bishrampur and Karkatta and meets at starting point 'A'.

BLOCK-B:

- F-G Line starts from point 'F' and passes through part village Bishrampur and meets at point 'G'.
- G-H Line starts from point 'G' and passes through common boundary of villages Bishrampur and Churi and meets at point 'H'.
- H-F Line starts from point 'H' and passes through village Bishrampur and meets at starting point 'F'.

[F. No. 43015/12/2012-PRIW-I]
A.K. DAS, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 23 अगस्त, 2012

का.आ. 2921.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर, आर्डनेन्स इक्विपमेंट फैक्ट्री, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 24/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-8-2012 को प्राप्त हुआ था।

[सं. एल-14011/12/2010-आई आर (डी यू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 23rd August, 2012

S.O. 2921.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the General Manager, Ordnance Equipment Factory and their workman, which was received by the Central Government on 23-8-2012.

[No. L-14011/12/2010-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE**BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR****Industrial Dispute No. 24 of 2011****Between**

Sri Ashish Kushwaha,
Son of Late Puttan Babu,
119/509, Darhan Purwa,
Kanpur

Versus

The General Manager,
Ordnance Equipment Factory,
Phoolbagh,
Kanpur

AWARD

1. Central Government, Mol, vide Notification No. L-14011/12/2010-IR (DU), dated 20-4-2011, has referred the following dispute for adjudication to this tribunal :

2. "Whether the action of the management of the Ordnance Equipment Factory, Kanpur, not considering the request for compassionate appointment of Sri Ashish Kushwaha on the death of his father Late Puttan Babu, Chargeman Gr. II

personnel No. 024735/FS Section is just fair and legal? What relief the applicant concerned is entitled to?"

3. Brief facts are that despite several opportunities given to the claimant, claimant Sri Ashish Kushwaha did not file the claim statement. Opposite party has also not filed the reply or any written statement, as there was no claim statement so opposite party was also not in position to file the written statement. In such circumstances when there is no claim statement, the reference could not be decided in favour of the claimant. In such circumstances it is to be held that the action of the opposite party is just and fair and the claimant is not entitled for any relief.

4. Reference is answered accordingly against the claimant.

RAM PARKASH, Presiding Officer

नई दिल्ली, 23 अगस्त, 2012

का.आ. 2922.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैनेजमेंट आफ टेलीकॉम, डिस्ट्रिक्ट मैनेजर, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-1, धनबाद के पंचाट (संदर्भ संख्या 16/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-8-2012 को प्राप्त हुआ था।

[सं. एल-40012/416/2000-आई आर (डी यू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 23rd August, 2012

S.O. 2922.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom District Manager and their workman, which was received by the Central Government on 23-8-2012.

[No. L-40012/416/2000-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, DHANBAD**

In the matter of an application U/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 16 of 2001**PARTIES:**

Employers in relation to the management of Telecom.
District Manager

AND

Their Workmen

PRESENT:

Shri H. M. Singh, Presiding Officer

APPEARANCES:

For the Employers : Shri Z. Azam, Advocate

For the Workman : Shri U. N. Lal, Advocate

State : Bihar

Industry : Telecom

Dated, the 17th July, 2012

AWARD

By Order No. L-40012/416/2000/IR(DU) dated 27-12-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Telecom. in terminating the services of Sh. Sujeet Kr. Singh w.e.f. 6-7-99 is justified ? If not, to what relief the workman is entitled ?”

2. The case of the concerned workman is that he had been working as permanent Computer Operator since 1-1-1996 against permanent vacancy and had put in more than 240 days attendance in each calendar year. The management with an ulterior motive to victimise and to exploit the helplessness of the concerned workman had been preparing paper arrangement to camouflage the real issue. The consistent demand of the concerned workman for regularisation had annoyed the management to the extent of terminating his service without assigning any reason and without affording him any opportunity. The management terminated his service orally without issuing any charge sheet and without conducting any enquiry. The management terminated his service without complying with the mandatory provision of Sec. 25-F and 25-N of the I.D. Act. The concerned workman represented before the management several times for his reinstatement with full back wages but without any effect. So, an industrial dispute was raised before A.L.C.(C) which ended in failure. Thereafter, the present dispute has been referred to this Tribunal by the appropriate Government for adjudication. The action of the management in terminating the service of the concerned workman w.e.f. 6-7-1999 is not justified.

Under such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to pass an award by directing the management to re-instate the concerned workman with full back wages.

2. The case of the management is that the concerned workman had once been engaged by letter dated 22nd December, 1995 for a period of one year w.e.f. 1-1-1996 and willingness and request of the workman next 1-1-1997 and 2-1-1998 to December, 1998 simply engaged on contract

basis for one year only on three occasions separately to work as Computer Operator purely on contract basis against the remuneration fixed at Rs. 2600 per month and continued with the contract work from January, 1996 to December, 1998 and ceased to work as such ever since December, 1998. The concerned workman had filed a case before Central Administrative Tribunal, Patna, bearing OA No. 254/99 dated 3/17-1-2000 and an order was passed by the Tribunal with an observation that we are confident that the engagement of the applicant was of pure and simple in nature of contract and probably there existed no regular post against which he could have sought for appointment. The O.A. is accordingly dismissed at the admission state. The case of the concerned workman is not maintainable either in law or on facts under I.D. Act, 1947, hence he does not deserve any relief.

Accordingly it has been prayed that the Hon'ble Tribunal be pleased to pass an award holding that the concerned workman is not entitled to any relief.

In rejoinder to the written statement of the workman, the management has stated almost same things as have been stated in its written statement.

4. The concerned workman produced himself as WW-1 and the documents filed on behalf of the concerned workman have been marked as Exts. W-1 to W-5.

No oral evidence has been produced by the management.

5. Argument advanced on behalf of the concerned workman is that he was appointed as Computer Operator on 1-1-96 and worked upto December, 1998. He has worked more than 240 days in a calendar year, but the management is not regularising him.

6. The management argued that the concerned workman had been appointed as Computer Operator on contract basis on a remuneration of Rs. 2600 per month and continued from January, 1996 to December, 1998 and after that he ceased to work since December, 1998.

It has been argued on behalf of the management that the concerned workman filed a case before Central Administrative Tribunal, Patna, bearing No. OA-753/99 dated 1/17-1-2000 which has been dismissed.

It has also been argued that the Telecommunication Department is not an Industry under the I.D. Act.

In this respect the concerned workman has filed papers, Ext. W-2 is regarding representation made before the management, Ext. W-2 is letter for engaging the workman on contract basis and he worked w.e.f. 1-1-96 to 31-12-98 which was sent by the management to A.L.C. Patna, Ext. W-3 is order by C.A.T., Ext. W-4 is circular issued by the management on 29-9-2000 for regularisation of casual labourers and Ext. W-5 shows that other many casual

persons have been regularised. It shows that the management is regularising casual workers and the concerned workman has stated on oath as WW-1 that he was working on regular post as Computer Operator against permanent vacancy and had put in more than 240 days attendance in a calendar year till the date of stoppage upto 6-7-99. Against this there is no evidence given by the management which can be ignored.

The concerned workman has worked more than 240 days w.e.f. 1-1-96 to December, 1998 which has been accepted by the management. No person has been regularised by the management as per Ext. W-4 the management issued circular for regularisation of persons in casual labours who have worked for more than 240 days in a year.

7. Considering the above facts and circumstances I hold that the action of the management of Telecom in terminating the services of Sh. Sujeet Kr. Singh w.e.f. 6-7-99 is not justified. He is entitled for re-instatement in service without back wages because no evidence has been given regarding back wages. The management is directed to reinstate the concerned workman within 30 days from the date of publication of the award in the Gazette of India.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 23 अगस्त, 2012

का.आ. 2923.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्टर, सेन्ट्रल इन्स्टीट्यूट ऑफ़ कॉटन रिसर्च के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एन.जी.पी./45/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-8-2012 को प्राप्त हुआ था।

[स. एल-42012/14/1996-आई आर (डी यू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 23rd August, 2012

S.O. 2923.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/45/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between The Director, Central Institute for Cotton Research and their workman, which was received by the Central Government on 23-8-2012.

[No. L-42012/14/1996-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/45/2002

Date : 31-7-2012

PARTY NO. 1:

The Director,
Central Institute for Cotton Research,
Panjari Farm,
PO : Rui, Wardha Road,
Nagpur

Versus

PARTY NO. 2:

Shri Vinayak Bajirao Amle,
R/o Rui Panjari,
PO : Rui, via Ajni,
Tah. and Distt. Nagpur

AWARD

(Dated : 31st July, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of C.I.C.R. and their workman, Shri Vinayak Amle, to CGIT-cum-Labour Court, Jabalpur for adjudication, as per letter No. L-42012/14/96-IR (DU) dated 4-3-1997, with the following schedule :

"Whether the action of the Director, Central Institute for Cotton Research, Wardha Road, Nagpur in removing Shri Vinayak, a daily paid labour from service w.e.f. 3-5-1984 by way of suspending from service, is legal, proper and justified? If not, to what relief the workman is entitled?"

Subsequently, the case was transferred to this Tribunal for adjudication in accordance with law.

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, shri Vinayak Amle, ("the workman" in short), filed the statement of claim and the management of C.I.C.R., ("Party No. 1" in short) filed its written statement.

The case of the workman as projected in the statement of claim is that the party No. 1 is an establishment engaged in the business of producing high and scientific quality of cotton seeds and marketing and sale of the same to the needy persons/institutes and is also engaged in the business of exporting the cotton seeds and therefore, the party no. 1 is an industry within the meaning of Section 2(j) of the Act and the party no. 1, for production of high quality

of cotton seeds, engages workers to work manually and to protect the farms used for production and research of cotton seeds etc. and he was engaged by the party no. 1 as a class IV employee and is a workman as per the meaning of Section 2(s) of the Act and he came to be appointed by party no. 1 on 18-4-1978 and his services was utilized as a watchman on the farm owned by party no. 1 and other duties of class IV were also extracted from him and initially he was being paid wages on monthly basis in cash at the rate of Rs. 3.75 per day, which was subsequently came to be enhanced and the party no. 1 was obtaining his signature on the muster roll maintained by it and the post on which, he came to be appointed was of a permanent nature.

The further case of the workman is that while he was in continuous service of party no. 1, a false and fabricated criminal complaint came to be filed against him, due to local politics of the village and a criminal case under Section 295 read with Section 34 of the India Penal Code was initiated against him and he faced the trial before the court of Judicial Magistrate, First Class, Court No. 10, Nagpur along with two others and he was acquitted in the said case, by judgment dated 8-7-1994 and pending investigation of the said criminal case, he came to be suspended by party no. 1 w.e.f. 3-5-1994, by order bearing no. F.No. XI (63) Admn/84/6320 dated 3-5-1984 (wrongly mentioned as 3-5-1994 in the statement of claim) and after placing him under suspension and before the pronouncement of the judgment in the criminal case, party no. 1 decided to initiate a disciplinary proceedings against him and in the process, departmental enquiry came to be ordered against him by party no. 1 vide its order dated 20th April, 1985 and one Shri Aneja, Senior Administrative Officer, National Bureau of Soil Survey and Land Use, Planning, Nagpur was appointed as the enquiry officer to hold the departmental enquiry into the charges levelled against him in the charge sheet dated 21-1-1985 and the said charge sheet was purported to be issued by Shri N. L. Bhala, the Director of party no. 1 and he denied each and every allegation levelled in the charge sheet vide his letter dated 25-3-1985 and the enquiry officer appointed to make the enquiry, never intimated him any date of enquiry, resultantly, till this date, the said departmental enquiry appears to have been kept in abeyance and he does not know the reasons as to why the enquiry was not continued, but his suspension continued till date and it was unfortunate that party no. 1 decided to keep him under suspension w.e.f. 3-5-1984 till this date without payment of any suspension allowance or subsistence allowance, so he was constrained to file an application under Section 33-C(2) of the Act, for recovery of the subsistence allowance in the First Labour Court, Nagpur and his application was registered as C.G.-IDA No. 185/1986 and the same is still pending and for the first time, the party no. 1 in the reply submitted before the labour court declared that it was deemed by them that he (workman) had been removed from their services and except

the said averment, no order of removal came to be issued till this date and from the facts as stated above, it will be seen that the entire exercise adopted by the party no. 1 to remove him from services is unilateral and arbitrary and therefore is illegal.

It is also pleaded by the workman that he had put in six years of continuous service and had put in more than 240 days of continuous service preceding the date of removal from the services and provisions of Section 25-F of the Act are therefore, very much attracted and party no. 1 had neither issued one month's notice nor paid one month's pay in lieu of notice nor paid the retrenchment compensation and there were many other junior employees in service of party no. 1 and the entire actions of the party no. 1 amount to wrongful termination and on that ground alone, the action is liable to be set aside.

It is also pleaded by the workman that though party no. 1 suspended him w.e.f. 3-5-1984, did not pay him any subsistence allowance and though the departmental enquiry was instituted against him, no enquiry was made and as such, the action of party no. 1 treating him to have been removed from services, lack of logic, rational and law and in view of his acquittal in the criminal case, the entire action of the party no. 1 came to be frustrated and the entire actions undertaken by party no. 1 become infructuous, inoperative and illegal and therefore, he is entitled for reinstatement in the service with all benefits of wages, fixation of wages, seniority, leave and all other benefits w.e.f. 3-5-1984.

3. The party no. 1 in the written statement has pleaded inter-alia that it is purely a research institute and is not engaged in any activity, which can be called business, trade or manufacture and is not engaged in commercial or industrial activity and it is more an institute discharging Government functions and its functions are purely in the interest of the nation and its development and it is under the control of the Ministry of Agriculture and is included in the sovereign functions of the state and therefore, not an "industry" as defined under Section 2(j) of the Act and consequently, the workman (mentioned as party no. 2 in the written statement) is not a workman as defined under Section 2(s) of the Act and therefore, the reference is not maintainable and is liable to be answered in negative.

It is further pleaded by the party no. 1 that it has its own Rules and Bye-Laws and Chapter III of the Bye-Laws contain conditions of service applicable to its permanent and temporary employees and under clause 30, it is stated that the service conditions of its employees shall be Regulated by the Central Civil Services (Classification, Control and Appeal) Rules and the Central Civil Services (Conduct) Rules of the Government of India and wherever there is reference as to Government Servant in these Rules, it shall be construed as officers and employees of the society and it is stated therein that except in regard to the matters

for which specific provision has been made or issued by the society, the service and financial rules framed by the Government of India and such other rules and orders issued by the Government of India, from time to time, apply mutatis-mutandis to the employees of the society in regard to the matters concerning their conditions of service and as such, by specific application, the conditions of service governed by the Civil Services (Classification, Control and Appeal) Rules and Central Civil Services (Conduct) Rules apply to its employees.

The further case of the party no. 1 is that the workman was engaged as a casual labourer on daily rate of wages some-time in the year 1978 for the work at Panjri farm and his services were used for the number of days he was called for doing the work as and when the work was available and in fact, he was initially engaged during the cotton season and his services were never utilized as a watchman and the claim of the workman that the post on which, he was appointed was of a permanent nature is not true and on 1-5-1984, a written complaint addressed to the Director was received from 15 residents of village Panjri and according to the said complaint, on 29-4-1984 between 9 PM to 10 PM, when the villagers were asleep in their houses, a jeep bearing No. MTG-1553 being driven by Hanumant Ugale and carrying some other persons came to the village and broke the idol of Lord Buddha and when the villagers shouted at them, some of them put pointed weapons on their chest and threatened them of their lives and by letter dated 2-5-1984, the police station incharge, Hingna Police Station informed it about the arrest of the workman and three others on 1-5-1984 and submission of the charge sheet in the court against them and it was also further informed by the police about registration of crime case no. 16/84 under section 295/34 of the IPC and investigation to have been made against them and police also requested it (party no. 1) to initiate disciplinary enquiry against its employees alleged to be involved in the commission of the crime, so, the workman and other employees involved in the case were put under suspension by an order dated 3-5-1984 and intimation of such action was given to the office-in-charge of the police station, Hingna vide letter dated 4-5-1984 and the P.S.I. was requested by it to send a copy of the charge sheet dated 11-5-1984 alongwith the offence letter dated 2-5-1984 and the F.I.R. dated 30-4-1984 and as the workman was involved in criminal act, he was immediately suspended pending investigation and he being a casual and daily paid labourer, there was no need to hold a departmental enquiry, as he does not get any protection under article 311(2) of the Constitution of India and his suspension was temporary termination of service and the action taken against the workman was for the reasons of his involvement in commission of criminal offences of hurting the feelings of Harijans by destroying the idol of Lord Buddha and even otherwise, a daily paid casual labourer has no right to be

continued in Government service and there is also no question of reinstating him, because he was arrested by the police in crime case no. 16/84 and he is disqualified for Government service and mere acquittal in the criminal case does not come in the way of the disciplinary action taken by it and the suspension of the workman amounted to termination from service, because he was a daily paid casual labourer and the order passed by the First Labour Court, Nagpur has been challenged before the Hon'ble High Court, Nagpur and the workman had not completed 240 days of work and the provisions of section 25-F and 25-G of the Act are not attracted and the termination does not amount to retrenchment and the workman is not entitled to any relief.

4. Besides placing reliance on documentary evidence, both the parties have led oral evidence in support of their respective claims. The workman has examined himself as a witness in support of his case. In his examination-in-chief, which is on affidavit, the workman has reiterated the facts mentioned in the statement of claim. The workman, in the cross-examination has stated that on 18-4-1978, he was appointed as a casual labour on daily wages and there was a complaint against him on the allegation of damaging the statue of Lord Buddha and police had informed the office about his arrest. The workman has further stated that management had not issued any termination order.

5. One Mr. Vithal Ramraoji Jawalkar, an Assistant Administrative Officer of party no. 1 has been examined as a witness on behalf of party no. 1. The examination-in-chief of this witness is also on affidavit. This witness in his examination-in-chief has reiterated the facts mentioned in the written statement. In his cross-examination, this witness has admitted that a suspension order was issued against the workman by the management on 3-5-1984 and Ext. W-5 is the copy of the said suspension order and on the report of Dr. N. L. Bhale, the Director, a police case was registered against the workman and the workman was acquitted in the criminal case by the judicial court and a departmental enquiry was ordered against the workman and two others by Mr. Bhale and one Mr. Aneja, Sr. Administrative officer was appointed as the enquiry officer and management has not filed any documents of the enquiry proceedings and he cannot say if any departmental enquiry was conducted against the workman or not and he has not seen any documents regarding conduction of departmental enquiry against the workman.

6. At the time of argument, it was submitted by the learned advocate for the workman that party no. 1 has not disputed that the workman was appointed on 18-4-1978 and that while he was working with party no. 1, on 3-5-1984, he was suspended by party no. 1, on the allegation of registration of a criminal case and his arrest in the same and though charge sheet was submitted against

the workman and enquiry officer was appointed, further action was not taken in that matter and subsistence allowance was not paid to the workman and when the workman filed a complaint in the Labour Court for subsistence allowance, for the first time, the party no. 1 mentioned in the reply that the order of suspension be deemed as order of termination of the workman and the action of the party no. 1 is illegal and provisions of Section 25-F of the Act were not complied with and as such, the so called termination of the workman is illegal and such action amounts to retrenchment and the workman is entitled for reinstatement in service with continuity, full back wages and all other benefits.

7. On the other hand, the learned advocate for the party no. 1 submitted that the party no. 1 is not an industry as defined under Section 2(j) of the Act and consequently the workman is not a workman as per the definition of Section 2(s) of the Act and therefore, the reference is not maintainable and the workman was a daily paid casual labour and he was arrested in a criminal case and he does not have any right to claim service in Government department and as such, none of the provisions, much less, section 25-F and Section 25-G of the Act are applicable and as the workman was a daily paid casual labourer, the order of suspension itself amounted to termination and the workman is not entitled to any relief.

8. Perused the record including the evidence adduced by the parties. So far the first contention raised by the learned advocate for the party no. 1 that party no. 1 is not an industry is concerned, by taking into consideration the pleadings of the parties and applying the principles enunciated by the Hon'ble Apex Court in the case of Bangalore Water Supply Vs. Rajappa, reported in 1978 LAB IC-467, which has been cited in the written statement, to the present case in hand, it is found that the party no. 1 is an industry and there is no force in the contention raised by the learned advocate for the party no. 1.

9. It is found from the materials on record that there is no dispute that the workman was appointed in the services of the party no. 1 on 18-4-1978 and he was suspended on 3-5-1984, on the ground of pending investigation of a criminal offence and thereafter, though charge sheet was submitted and enquiry officer was appointed, no further action was taken by party no. 1 in the said departmental enquiry. It is also not disputed that no subsistence allowance was given to the workman, even though he was suspended and the workman was not served with any order of termination of the services and he was also not taken back in service and when the workman approached the labour court for subsistence allowance, the party no. 1 declared that the order of suspension be treated as termination order. It is also not disputed that the provisions of Section 25-F of the Act were not complied with at the time of suspension of the workman or the deemed order of

termination as claimed by the party no. 1. It appears from the record that the action of the party no. 1 was quite illegal. Party no. 1 though initiated the departmental enquiry, did not proceed with the same and also did not intimate the workman the reason of not proceeding with the enquiry. Party no. 1 did not pay any subsistence allowance to the workman. No specific order of termination of the services of the workman was passed. It is also not disputed that the departmental enquiry was initiated against the workman for registration of the criminal case against him and he was also suspended for the same and the workman has already been acquitted in the criminal case. Hence, the so called termination of the workman from services w.e.f. 3-5-1984 is quite illegal and amounts to retrenchment. Taking the entire facts and circumstances of the case into consideration, I think that this is a fit case, where the workman is entitled to reinstatement in service with continuity, full back wages and all other consequential benefits. Hence, it is ordered :

ORDER

The action of the Director, Central Institute for Cotton Research, Wardha Road, Nagpur in removing Shri Vinayak, a daily paid labour from service w.e.f. 3-5-1984 by way of suspending from service, is illegal, improper and unjustified. The workman is entitled for reinstatement in service with continuity from the date of his suspension i.e. 3-5-1984 and full back wages and all other consequential benefits.

J. P. CHAND, Presiding Officer

नई दिल्ली, 23 अगस्त, 2012

का.आ. 2924.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चीफ जरनल मैनेजर, टेलीकाम महाराष्ट्र सर्किल, मुम्बई के प्रबंधन के संबंध में निर्यातों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एन.जी.पी./04/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-8-2012 को प्राप्त हुआ था।

[सं. एल-40011/31/2008-आई आर (डी यू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 23rd August, 2012

S.O. 2924.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/04/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the Chief General Manager, Telecom Maharashtra Circle, Mumbai and others and their workman, which was received by the Central Government on 23-8-2012.

[No. L-40011/31/2008-IR (DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/04/2009

Date : 18-7-2012

Parties No. 1(a) : **The Chief General Manager,
Telecom. Maharashtra Circle,
8th Floor, Fountain Telecom Exchange
Building, II, M.C. Road,
Fort, Mumbai-400001.**

1(b) : **The Principal General Manager,
Telecom, Nagpur Telecom District,
Telecom, Zero Miles,
Nagpur-440001.**

1(c) : **The Chairman, Telecom Commission,
Sanchar Bhawan, 20 Ashok Road,
New Delhi.**

1(d) : **The Chief Managing Director,
BSNL, Stateman House,
Bara Khamba Road,
New Delhi.**

Versus

Party No. 2 : **The District Secretary,
National Federation of Telecom
employees, Nagpur Telecom,
CTO Compound,
Nagpur-440001.**

AWARD

(Dated : 18th July, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Telecom Maharashtra Circle and their 71 workmen, for adjudication, as per letter No. L-40011/31/2008-IR (DU) dated 16-2-2009, with the following schedule :

"Whether the demand of the National Federation of Telecom Employees for grant of status of full time casual labour to 71 workmen, as per Annexure, by the management of Principal General Manager, Telecom, BSNL, Nagpur, is legal & justified? If yes, to what relief is the workmen are entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement in response to which, the union, "National Federation of Telecom Employees", ("the Union" in short),

filed the statement of claim on behalf of all the 71 workmen (As per annexure 'A') and the management of Telecom Maharashtra Circle, ("Party No. 1" in short) filed its written statement.

The case of the 71 workmen as presented by the union in the statement of claim is that all the 71 workmen are working from the respective dates as mentioned against their names in annexure 'A' and all of them are in continuous and uninterrupted service till today and generally they are being assigned duties on part time for 3 to 4 hours daily and at times upto 4 to 8 hours and the Government of India, Department of Telecom Services under circular letter No. 269/13/99 STN. II, dated 25-8-2000 issued direction to all the Chief General Managers including party no. 1 to convert all part time casual labourers working for less than 4 hours duty per day to full time casual labours, but party no. 1 did not take any action on the basis of the said circular and in persuasion to the above mentioned circular, the department of Telecom issued another circular bearing no. 269-94-STN-II dated 29-09-2000 directing all the Chief General Manager, Telecoms to regularize the casual labourers, who were working for less than four hours per day and who were converted to full time casual labours as per letter dated 25-08-2000 and the issue of absorption of casual labourers including part time labourers was discussed by the Head Quarters union, New Delhi with the Chief Managing Director, BSNL, New Delhi on 2-1-2001 and it was decided in the meeting that the left out cases, if any would be settled by the BSNL in accordance with circular no. 269 dated 29-09-2000 and the record of discussion and decision was circulated under BSNL/4/SR/2000 dated 2-1-2001 and as per letter no. BSNL/4/SR/2000 dated 5-3-2001, option were called for from group 'C' and group 'D' employees of BSNL on the ground of requirement of such option to declare all the casual labourers regularized in terms of order dated 29-09-2000 as government employees and they (union) submitted a list of 113 part time employees to party no. 1 for converting them into full time casual workers, but party no. 1 neither converted them into full time casual workers nor granted them temporary status or regularized them as group 'D' employees and after submission of the list of 113 part time labourers, a committee consisting of the Assistant General Manager and vigilance officer of the office of P.G.M.T., Nagpur and the General Secretary of the union was constituted, for verification of such part time worker and under letter no. AGM(A)WLF/W-I/DRM/VFN/2002/19 dated 8-8-2002 direction was given to the committee to complete the job at the earliest and party no. 1 by letter No. HRD/E-22-court cases/18 dated 29-10-2002 directed all the subordinate officers not to remove any part time employee till submission of the report by the above stated committee and to take back the removed part time labourer, if any, on duty immediately and the three members committee visited all the places, where part-time labourers were working and

after verification of records and the statements of the staff, submitted their report on 10-12-2002 to the party no. 1 and the Chief General Manager directed the party no. 1 under this letter no. A/Rectt-III/p/Tel/Report/Vol. II/41 dated 14-11-2002 to submit the report for consideration and necessary action, but party no. 1 delayed the submission of the report for seven months and lastly submitted the same under letter no. 269-94/98-STN-II/Pers-IV (Vol. III) M-II dated 3-10-2003 for regularisation of some part time workers and ignored completely the workman involved in the dispute and the Chief General Manager, Telecom under his letter no. SA/Recruitment-II/7/CCS/LOC/Volume-III dated 7-1-2004 had called for the status report from party no. 1 and the said report was to be submitted in consultation with the above stated committee and the committee members were directed by the Dy. General Manager, of the office of the party no. 1 under letter no. AGM(A)W-1/DRM/VFN/52 dated 16-1-2004 to submit their report after re-verification.

The further case of the union is that the name of Shri Udar S/o. Ganpat Gautel, a part time worker was initially included in the list of 113 workmen, but his name was excluded from the final list of 71 part time workers, because his case for full time worker and regularisation was subjudiced before the Hon'ble High Court, Nagpur bench in writ petition no. 4586/03 and as per the judgment of the Hon'ble High Court in writ petition no. 4586/03, the name of Shri Udar was included in the list of 71 part time workers and a final list of 72 part time workers was submitted by the three members committee to the PGMT, Nagpur and the same was then forwarded to the Chief General Manager, Telecom, Mumbai by the PGMT under letter no. HRD/E-22/Court cases/39 dated 12-4-2004 and the Chief General Manager by letter A/Rectt-II.Cor/Nagpur/Vol. 114, dated 25-3-2004 recommended the Telecom Board, New Delhi only for conversion of Shri Udar Goutel to full time worker and then for regularisation and accordingly, the Telecom Board, New Delhi approved the conversion of Shri Udar into full time worker under letter No. 272-08/2005-pers-IV dated 25-05-2005 and ignored and claim of the remaining 71 workmen for conversion into full full time workers and the Telecom Board vide letter dated 18-2-2005 sought clarification from party no. 1 and to reconcile the difference in the names of the workers in the list submitted by them vide letter dated 30-4-2004 and it was explained that in view of the judgment of the Hon'ble High Court in writ petition no. 4586/03, name of Shri Uday was included in the list of 71 part time workers as per the instruction of the Chief General Manager, Mumbai and their Head quarters union took up the matter with the Board's office, New Delhi and requested for conversion of all the 72 part time workers into full time workers, under the letter dated 6-4-2005 and the Chief General Manager under his letter dated 27-5-2005 directed the party no. 1 to convert services of Shri Uday into full time worker and accordingly party

no. 1 issued orders for conversion of Sri Uday into full time worker under letter no. STE-22/STN-33/2000/03, dated 28-3-2005 and thus it was a case of hostile discrimination and violation of Articles-14 and 16 of the Constitution of India and in order to terminate the services of the 71 workmen, ignoring the recommendations of the three members committee's report and direction of the Government, the party no. 1 invited tenders for cleaning, sweeping and other menial work and finalized the tender and they (union) is along demanding that unless and until all the 71 workmen are regularized, no work should be given on contract to outside agency and the action of party no. 1 to give the works on contract basis shows that there are sufficient work to absorb the 71 workmen as full time workers and the 71 workmen are entitled for conversion for conversion to full time workers.

3. The party no. 1 in its written statement has pleaded inter-alia that the union has no legal right to represent the cause of the alleged part time workers, as there is no relationship of employer and employee between it and the said workers and the union can only represent the grievance of its members and none of the 71 workmen have been appointed by the selection process and in accordance with the procedure for selection Department of Telecommunication (BSNL at present) and it a "State" within the meaning of article 12 of the Indian Constitution and is bound by the rules and procedure in the matter of employment and now, it is well settled that engagement or appointment of any person in breach of the rules or procedure is not legal and it does not vest any legal right in such person and a ban was imposed on engaging casual labourers by the then department of Telecom's letter No. 270-6/1984-STN dated 30-3-1985 and in view of the said ban, it was not open for any of the officers to engage casual labour and engagement of all such casual labour was illegal being without any authority and violation by the ban. It is further pleaded by party no. 1 that a scheme for regularisation of casual labourers called, "casual labourers (Grant of Temporary Status and Regularisation)" scheme was framed by the Department of Telecom vide circular No. 269-10/1989-STN dated 7-11-1998 and as per the said scheme, casual labourers meeting the eligibility conditions/criteria as mentioned below were to be granted temporary status and subsequently regularisation, by keeping the Recruitment Rules for the post of group 'D' in abeyance and the conditions/criteria were :

- (a) The casual labour should have rendered 240 days of service in a year (206 days in office following five days week pattern)
- (b) The casual labour should be currently employed i.e. should have been in service on 7-11-89.
- (c) The casual labour should have been engaged before 30-3-1985.

It is also pleaded by the party no. 1 that the grant of temporary status and regularisation was extended by the department of Telecom vide letter no. 269-4/93 STN-II dated 17-12-1993 and casual labourers meeting the following eligibility conditions were to be granted temporary status and subsequent regularisation :

- (a) The casual labour should have been engaged between 31-3-1985 to 22-6-1988.
- (b) The casual labour should be currently engaged i.e. be in engagement as on 17-12-1993.
- (c) The casual labour should have rendered 240 days of service in a year (206 days in office following five days week pattern)

and the scheme of grant of temporary status and regularisation was further extended by the department of Telecom vide circular no. 269-4/93-STN-II dated 12-2-1999 and for the same, the following eligibility conditions were stipulated :

- (a) The casual labour should have been engaged as on 1-8-1998.
- (b) The casual labour should have rendered 240 days of service (206 days in office following five days week) in a year.

And Department of Telecom vide letter no. 269-13/99-STN-II dated 19-9-1999 and letter no. 269-13/99-STN-II dated 25-8-2000 issued orders for converting the part time casual labours to full time casual labours, who had been working for four hours and more than four hours and less than four hours respectively and under those orders, where there was shortage of group 'D' staff, the casual labourers, who had worked for 240 days in the preceding 12 months were to be converted to full time based on suitability and in the event of no shortage in group 'D' staff, the part time casual labourers were not to be converted into full time casual labourers and the entire exercise was to be worked out to the extent of the numbers indicated in the annexure to the above said letters and Department of Telecom issued letter no. 269-94/1998-STN-II dated 29-9-2000 on the basis of grant of temporary status scheme of 1989 and as per these instructions, casual labourers, including those who have been granted temporary status are to be regularized w.e.f. 1-10-2000, in the following orders, subject to their eligibility and availability of posts.

- (i) All casual labourers who have been granted temporary status up to the issuance of order no. 269-4/93 STN-II dated 12-2-1999 and further vide letter no. 269-13/99 STN-II dated 12-2-1999 and further vide letter no. 269-13/99 STN-II dated 9-6-2000.

- (ii) All full time casual labourers as indicated in the annexure to the letter dated 29-9-2000

- (iii) All part time casual labourers who were working for four or more hours per day and converted to full time casual labourers vide letter no. 269-13/99-STN-II dated 25-8-2000.

- (iv) All part time casual labourers who were working for less than four hours per day and converted into full time casual labourers vide letter 269-13/99 STN-II dated 25-8-2000.

- (v) All Ayas and Supervisors converted into full time casual workers as per order no. 269-10/97-STN-II dated 29-9-2000 and BSNL was following the above mentioned rules in so far regularisation of casual labourers and conversion of part time casual labourers to full time casual labourers till 10-4-2006, but on 10-4-2006, the Constitutional Bench of the Hon'ble Supreme Court in the matter of Secretary, State of Karnataka Vs. Uma Devi and others held that regularisation of casual labourers dehors the recruitment rules in unconstitutional and illegal and in view of the orders of the Hon'ble Apex Court in the said decision and in the decision in the case of state of UP Vs. Niraj Awasthi and other (2006)(1) SCC 667, Punjab Water Supply and Sewerage Board Vs. Ranjodh Singh and other decisions, the scheme for grant of temporary status and regularisation, 1989 of the Department of Telecom and all the above said related orders became legally untenable and were not being followed by BSNL.

The party no. 1 in their written statement has denied the claim that the workmen as per the list, annexure 'A' are working under them from the dates mentioned against their names and that they are in continuous and uninterrupted service. The further case of the party no. 1 is that circular dated 25-8-2000 was issued for conversion of part time casual employees to full time category and according to the said circular, the part time casual employees then existing and were working for less than four hours per day and worked for not less than 240 days in the preceding 12 months were to be considered for conversion to full time category, subject to qualification and availability of vacancies indicated against respective circles and as the then existing part time casual workers either failed to fulfil the requisite conditions or due to non availability of vacancy, they could not be converted into full time casual workers and could not have been regularized and though circular dated 2-1-2001 was issued, the part time casual employees could not be converted to full time casual employee and further regularized for non-fulfillment of

requisite conditions and want of vacancies and the three members committee was formed for verification of casual labourers engaged by the field officers and the same was fact finding committee and no assurance was given by them regarding conversion or absorption and the said committee visited their different offices in Nagpur SSA and submitted the report dated 10-12-2003 to PGMT, Nagpur, about 88 part time casual workers and the said report was not supported with any document and in most of the cases, "no office record is available", "No official Confirmation" and "No Confirmation from office incharge" etc. were mentioned and in absence of supporting documents and records, it was impossible to determine as to whether the said part time workers were fulfilling the requisite conditions and during the period of the alleged engagement in service, there was complete ban in employment even of the part time casual workers and during the period of ban, the engagement of part time casual worker by the concerned officer was without any legal authority and due to deficiencies in the report of the committee, the list could not be finalized and the CGMT, Maharashtra Circle directed the party no. 1(A) to submit the report on the part time casual labourers and party no. 1(A) forwarded the report regarding 72 part time casual labours the CGMT, Maharashtra Circle and the CMD, BSNL, New Delhi vide letter dated 3-10-2003 accorded approval for conversion/regularisation of some the casual labourers/PTCLS pertaining to other SSAs and the CMD had sought further explanation from PGMT, Nagpur, which was duly replied vide letter dated 12-4-2004 and the Hon'ble High Court vide their final order dated 2-12-2003 in the writ petition no. 4586/2003 had directed to regularize the services of Shri U.G. Gautel as per existing norms and policy of the department on maturity of his turn and the union included the name of Shri Gautel in order to derive benefit for other part time casual labourers, who were not eligible for such benefit and the corporate office at New Delhi approved the conversion of Shri Gautel into full time casual labourer vide letter dated 25-5-2005. The further case of party no. 1 is that most of the part time casual labourers left the job of their own accord and the workmen were engaged by the field officers illegally violating the ban order and they were engaged without following the rules and procedures for selection and appointment and there is also no supporting records in regard to their engagement, so they have no legal right either to be converted into full time casual labourers or regularization thereafter and due to the total ban on recruitment of labour as per their policy, the work has to be got done through private agency to maintain upkeepment of the buildings and to maintain hygienic conditions for the working employees and for that tender was floated by them and there was no discrimination against the workman and there was also no violation of articles 14 and 16 of the Constitution of India and the workmen are not entitled for any relief.

4. The union in the rejoinder has pleaded that the party no. 1 did not raise the point of locus standi of the union at the time of the conciliation before the Labour Commissioner and Assistant Labour Commissioner (Central) and have raised the point in the written statement only to mislead the Tribunal and though party no. 1 have mentioned about various orders in the written statement, copies of the same have not been furnished and in absence of the documents, the statement cannot be accepted and though party no. 1 have pleaded that there was ban on engagement of part time casual labourers from 1984, copy of such an order has not been annexed and such claim is factually not correct and the O.M. in question was issued to review the policy of recruitment of casual workers and persons on daily wages and it is clear from the said O.M. that there was no complete ban on recruitment of casual workers and party no. 1 have most probably misread the judgement of Hon'ble Apex Court in Uma Devi's case, as in paragraph 53 of the said judgment, the Hon'ble Apex Court have observed that, "That long years of service does create a right to regularisation" and as one time exception to their above judgement have directed the Union of India, State Governments and their instrumentalities to take steps to regularize the services of such irregularly appointed workmen, who have worked for ten years or more and the Hon'ble Supreme Court in the case of U.P. State Electricity Board Vs. Puranchandra Pandey (All India Service and Journal) 2008 (1) 314 have directed that courts should not apply Uma Devi's case mechanically and Uma Devi's case does not apply to regularisation claimed as per Article 14 of the Constitution of India. The union has denied the pleadings made in the written statement.

5. The union in support of its claims has examined Shri A.K. Meshram, the Secretary of the union and the workman, Shri Dhanraj Shibujai Raut as the two witnesses. The examination-in-chief of both the witnesses is on affidavit. The witness, Shri Meshram in his examination-in-chief has reiterated the facts mentioned in the statement of claim. In his cross-examination, Shri Meshram has stated that he had made the list of 113 part time employees and no appointment order has been filed in respect of the 71 workmen and except the list filed by him, there is no document to show as to where and for how many days the 71 workmen had worked and the list of 113 persons including the 71 workmen was prepared by him on the basis of the informations given by the persons named in the list and the list of 71 persons does not bear the signature of any of them, in support of the correctness of the informations given in the same and no document has been filed on record to show that any of the 71 petitioners had worked for 240 days in any calendar year and annexure-E filed by him does not show that the committee was constituted to consider the case of 113 persons, whose list had been filed by him and the 71 petitioners did not produce any appointment order before the committee and no

document was submitted in accordance with annexure "B" to show that the 71 petitioners were eligible for consideration of their full time appointment and he cannot say if the 71 petitioners were not appointed or engaged by following the regular procedure of appointment.

6. The workman, Dhanraj Shibudji Raut in his examination-in-chief has stated about his working as a part time casual worker at Kalamna Telegraph Office, Nagpur since 26-07-1990 and that he was called by the telegraph office on 26-7-1990 and was directed to sweep the floor, store the drinking water and to do all other menial work and he is performing duties daily for 4 to 5 hours and sometimes even up to eight hours and he is being paid his wages regularly on ACG 17 form. In his cross-examination, the workman has admitted that he has not filed any appointment letter showing his appointment in Telecom Department.

7. No oral evidence has been adduced on behalf of the party no. 1. Party No. 1 have relied on the documents, Exits. M-I to M-VII.

8. In the written notes of argument, it was submitted by the learned advocate for the workman that the 71 workmen are working from different dates ranging from 1987 to 2000 as mentioned against their names in annexure "A" and they are in continuous and uninterrupted service till date, but they are being assigned duty on part time daily 3 to 4 hours and sometimes up to 4 to 8 hours and the Government of India, Department of Telecom taking cognizance of the miserable plight of the part time labourers issued the circular dated 25-8-2000 to convert all part time casual labourers, who were working for less than four hours per day to full time casual labourers and circular dated 29-9-2000 to regularize the casual labourers, who were converted into full time casual labourers as per the circular dated 25-8-2000, but Party No. 1 did not take any action in the matter, so this issue was raised by the Headquarter union with the CMD, BSNL, New Delhi on 22-01-2001 and it was agreed to settle the left out cases in accordance with the order dated 29-9-2000 and the union submitted a list of 113 part time casual labourers to Party No. 1 and in view of the submission of such list, Party No. 1 constituted a three members committee for verification of the list for regularization of the part time casual labourers and the Secretary of the Union was a member of the said committee and the committee after verification, submitted its report on 10-12-2002 with recommendation for regularization of the 71 workmen and Party No. 1 submitted the status report to the authority, but the 71 workmen were not considered for conversion into full time worker, which was an act of hostile discrimination and violation of Articles 14 and 16 of the Constitution of India.

It was further contended by the learned advocate for the union that the orders of the year 1985, 1989, 1999

and 2000, on which reliance has been placed by Party No. 1 have already become obsolete and have no bearing in the case and in the Hon'ble Apex Court in the case of the Secretary, State of Karnataka Vs. Umadevi had made exception in the case of persons who were in service for 10 or more years and observed that their services should be regularized as one time exception and in the cross-examination of the witnesses, questions have been asked about appointment order and about working for 240 days in any year, but these informations have already been highlighted by the own authority of Party No. 1 in the letter No. HRD/E-22/court cases/30 dated 19-6-2003 of the Asstt. General Manager (Admn.) PGM, Nagpur and Party No. 1 were aware of these short comings in their stand, hence they choose not to produce any witness on their behalf, otherwise all these questions would be got admitted again during their cross-examination and on the basis of documents, the union stands on sound footing and it is necessary to answer the reference in favour of the workmen. Reliance was placed by the learned advocate for the union on the decision reported in All India Services Law Journal IX 2006 (3)-1, (Secretary, State of Karnataka Vs. Umadevi).

9. Per contra, it was submitted by the learned advocate for the Party No. 1 that though the union has relied on various documents in the statement of claim and has filed the same on record, the union has failed to prove those documents in accordance with law, hence those documents cannot be considered for deciding the reference, except annexures B and E and list of persons, about which reference has been made in the cross-examination and the persons for whom, the union is making the grievance are not employees of the Party No. 1 and therefore they cannot be said to be legal members of the union and as such, the reference at the behest of such persons through the union is not maintainable and from the cross-examination of the witness no. 1 examined to behalf of the union, it has been brought on record that no appointment order has been filed in respect of the 71 employees and except the list of the 71 employees, there is no document to show as to where and for how many days the said 71 petitioners had worked and the list of 113 persons including the 71 petitioners was prepared on the basis of the informations given by them and there is no document to show that any of the 71 petitioners had worked for 240 days in any calendar year and the union has failed to prove that the 71 petitioners are entitled for regularization in terms of annexure-B and therefore, the reference is required to be answered in negative. The learned advocate for the Party No. 1 in support of such contentions placed reliance on the decisions reported in (2009) 11 SCC-342 (State of Karnataka Vs. F.V. Chandrashekar), (2007) 1 SCC-408 (Indian Drugs & Pharmaceuticals Ltd. Vs. Workman), (2009) 17 SCC-473 (Bangalore Metropolitan Transport Vs. T.V. Anadappa),

(2002) 8 SCC-400 (Essen Deinki Vs. Rajiv Kumar) and (2006) 9 SCC-697 (Krishna Bhagya Lal Nigam Ltd. Vs. Mohd. Rafi).

10. The first contentions raised by the learned advocate for the Party No. 1 is that as the documents filed by the union have not been proved in accordance with law, the same cannot be considered for deciding the reference. However, on perusal of the pleadings of Party No. 1 in the written statement, it is found that Party No. 1 have admitted the issuance of almost all the documents. The genuineness of the documents has not been denied in the written statement. Hence, there is no force in the contention raised by the learned advocate for the Party No. 1 and there is no hindrance to consider the documents referred in the statement of claim and filed on record by the union for deciding the reference.

11. So far the maintainability of the reference at the behest of the petitioners through the union is concerned; it is found from record that the industrial dispute was raised by the union on behalf of the petitioners before the Labour Commissioner and the Party No. 1 did not raised any objection to the same. It is also found from the materials on record that the 71 petitioners are workmen. In view of the provision of Section 36(3) of the Act, the union is found to be competent to represent the workmen in this reference. Hence, the submission made by the learned advocate for the Party No. 1 on this score fails.

12. On perusal of the pleading of the parties, evidence, both oral and documentary adduced by them and all other materials on record, it is found that the entire claim of the union for regularization of the workmen is based on the circulars, annexures "B" and "C" filed along with the statement of claim. Annexure "B" is a circular issued by the Government of India, Department of Telecom services dated 25-8-2000 for conversion of part time casual labourers working for less than 4 hours per day into full time casual labourers. It is to be mentioned here that in accordance with the said circular, the part time casual employees then existing and were working for less than four hours per day were to be converted to full time casual labourers subject to the conditions that they should have worked for 240 days in the preceding 12 months and availability of vacancies indicated against respective circles. In the said circular, other conditions were also mentioned for such conversion and the conditions were that they should be engaged as casual labourers subject to suitability and they should be engaged as casual labourers only where there is shortage of group "D" staff [i.e. existence of vacant Gr. "D" posts after accounting for all temporary status mazdoors (TSMS) and existing full time casual labourers and no posts should be created for this purpose] and in the event there is no shortage in Gr. "D" at the station where the casual labourers are working, the part time casual labourers will not be converted into full time casual labourers.

Annexure "C" is the circular issued by the Department of Telecom Services, New Delhi dated 29-9-2000 regarding regularization of casual labourers including all the part time casual labourers who were working for less than four hours per day and, were converted into full time casual labourers vide letter No. 269-13/99-STN-11 dated 25-8-2000 (annexure-B).

It is necessary to mention here that in annexure D(a), which is the record of discussions held on 2-1-2001 in the meeting with the three federations presided by the CMD. BSNL it was decided to settle the claim of absorption of casual labourers of left out cases in accordance with the order annexure "C". The subsequent actions taken by Party No. 1 regarding forming of the committee to verify the cases of casual labourers, submission of status reports etc. were also done on the basis of the circulars annexures "B" and "C".

13. It is clear from annexures "B", "C" and "D(a)" that for conversion of the 71 workmen, who were working as casual labourers in different establishments and offices of Party No. 1 for less than four hours, as per the claim of the union, to prove that the said workmen were suitable for conversion to full time casual labourers, there were vacancies in the circles, where such workmen were working and there was shortage of Group "D" employees and most importantly, the workmen had worked for 240 days in the preceding 12 months of the date of issuance of annexure "B" i.e. 25-8-2000. However, in the statement of claim such facts have not been mentioned. The two witnesses examined by union have also not whispered a single word about the same in their evidence.

The union has tried to show that annexure "F-i" (the report of the three members committee submitted to PGMT dated 10-12-2002), annexure "H" (the informations submitted by the Asstt. General Manager (Admn.), office of PGMT, Nagpur to the office of the Chief General Manager, Telecom, Maharashtra Circle, Mumbai dated 19-6-2003) and the tenders given by Party No. 1 for maintenance of housekeeping and hygienic condition are sufficient to prove that the workmen are entitled for conversion to full time casual workers and then for regularization.

It is necessary to mention here that the informations submitted under annexure "H" by the Asstt. General Manager (Admn) is completely based on annexure "F-i", the report submitted by the three members committee. So, it is to be found out if annexure "F-i" is sufficient to prove the facts as required under annexure "B".

On perusal of annexure, "F-i", it is found that the said report does not have any information about any vacancy in group "D" posts in different units of Party No. 1 and that the workmen had completed 240 days of work in the preceding 12 months of 25-8-2000. In most of the cases,

the dates from which the workmen were working have not been mentioned. No document or even statement of any official witness are filed in support of the observations made by the committee. It is also found that in most of the cases, the informations given by the committee were not confirmed by the concerned authorities of the unit. Workmen as mentioned from serial Nos. 64 to 71 were engaged to contract basis for delivery of telegrams.

After scrutiny of the documents annexures "B", "C", "F-I", "H" and the tenders, it is found that neither the union nor the workmen have been able to prove that the workmen are entitled for their conversion as full time casual workers and then for regularization. The documents regarding the order passed by the Hon'ble High Court in Writ Petition No. 4586/03 filed by Shri Gautel have not been filed by the parties, in absence of which, it is not possible to give any opinion as to whether there was any discrimination against the workmen as claimed. However, from the materials on record and the discussions made above, it is already held that the claim made by the union for regularization of the workmen is not sustainable. Hence, it is ordered :

ORDER

The demand of the National Federation of Telecom Employees for grant of status of full time casual labour to 71 workmen, as per Annexure, by the management of Principal General Manager, Telecom, BSNL, Nagpur, is illegal & unjustified. The workmen are not entitled to any relief.

J.P. CHAND, Presiding Officer

ANNEXURE "A"

List of Casual Labourers

Sl. No.	Unit	Name	Dt. of appointment		No. of working hours	Whether wkg. as on date
			From	To		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Nagpur	Charote N. B.	15-5-1997	Till date	Less than 4 hours	Yes
2.	Nagpur	Masram Arti Keshav	1-2-1999	Till date	Less than 4 hours	Yes
3.	Nagpur	Gajghate Smt. P.Y.	4-5-1996	Till date	Less than 4 hours	Yes
4.	Nagpur	Narad Smt. Malu M.	20-9-2000	Till date	Less than 4 hours	Yes
5.	Nagpur	Aldban Smt. Kamal R.	15-9-1994	Till date	Less than 4 hours	Yes
6.	Nagpur	Golait S.H.	Apr. 93	Till date	Less than 4 hours	Yes

(1)	(2)	(3)	(4)	(5)	(6)	(7)
7.	Nagpur	Bashir Smt. Kusum Syed	12-6-1999	Till date	Less than 4 hours	Yes
8.	Nagpur	Paunekar J.S.	1995	Till date	Less than 4 hours	Yes
9.	Nagpur	Bhaisare Smt. Nallni D.	14-7-1998	Till date	Less than 4 hours	Yes
10.	Nagpur	Nitnaware Smt. Vaishali G.	27-5-1996	Till date	Less than 4 hours	Yes
11.	Nagpur	Undirkar Sau. Nanda	1-4-1994	Till date	Less than 4 hours	Yes
12.	Nagpur	Nandeshwar Smt. F.Y.	1995	Till date	Less than 4 hours	Yes
13.	Nagpur	Kawale Smt. Baby G.	May, 1999	Till date	Less than 4 hours	Yes
14.	Nagpur	Bhawte Sau. Shanta	6-2-1995	Till date	Less than 4 hours	Yes
15.	Nagpur	Rajurkar Smt. Parwati K.	1997	Till date	Less than 4 hours	Yes
16.	Nagpur	Kale Smt. Shashikala T.	1994	Till date	Less than 4 hours	Yes
17.	Nagpur	Munjewar Smt. Manda M.	21-4-1988	Till date	Less than 4 hours	Yes
18.	Nagpur	Makrande Shekhar K.	1997	Till date	Less than 4 hours	Yes
19.	Nagpur	Prajapati Raju R.	25-5-1998	Till date	Less than 4 hours	Yes
20.	Nagpur	Batha Jitendra Uttamlal	27-5-1998	Till date	Less than 4 hours	Yes
21.	Nagpur	Gajbhiye Smt. Nirmala M.	7-8-1993	Till date	Less than 4 hours	Yes
22.	Nagpur	Thul Smt. Kunda B.	Apr. 1997	Till date	Less than 4 hours	Yes
23.	Nagpur	Maundekar Smt. Sunder	Mar. 1997	Till date	Less than 4 hours	Yes
24.	Nagpur	Parmal Smt. S.U.	13-12-1994	Till date	Less than 4 hours	Yes
25.	Nagpur	Borkar Gunderao B.	1-2-2000	Till date	Less than 4 hours	Yes

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(1)	(2)	(3)	(4)	(5)	(6)	(7)
26.	Nagpur	Raut. Smt. Annapurna R.	2-5-1997	Till date	Less than 4 hours	Yes	45.	Nagpur	Kajale Smt. S.G.	Nov. 1995	Dis-continued	—	No
27.	Nagpur	Chorewar N.H.	18-8-1997	Till date	Less than 4 hours	Yes	46.	Nagpur	Borkar Narendra R.	Apr. 1999	Till date	Less than 4 hours	Yes
28.	Nagpur	Ambadare Smt. M.M.	19-2-1995	Till date	Less than 4 hours	Yes	47.	Nagpur	Dhupe Amit P	Apr. 1999	Till date	Less than 4 hours	Yes
29.	Nagpur	Changole Smt. Shanta P.	1-6-1998	Till date	Less than 4 hours	Yes	48.	Nagpur	Waghmare Smt. Shanta M.	1-10-1994	Till date	Less than 4 hours	Yes
30.	Nagpur	Khadse Smt. Indubai P.	18-7-1997	Till date	Less than 4 hours	Yes	49.	Nagpur	Waghmare Smt. Yashodha G	13-9-1989	Till date	Less than 4 hours	Yes
31.	Nagpur	Khobragade Jagdish G.	18-7-1995	Dis-continued	—	No	50.	Nagpur	Dangoria Satish S.	10-9-1993	Till date	Less than 4 hours	Yes
32.	Nagpur	Chaure Motilal Indal.	1995	Dis-continued	—	No	51.	Nagpur	Wade Smt. Sunanda P.	2-4-1994	Till date	Less than 4 hours	Yes
33.	Nagpur	Chavan Smt. Ramabai T.	17-3-1998	Dis-continued	—	No	52.	Nagpur	Ninoriya Ajay N.	10-9-1993	Dis-continued	Less than 4 hours	No
34.	Nagpur	Khaka Parasnath Mangan	1998	Till date	Less than 4 hours	Yes	53.	Nagpur	Shendre V.P.	10-9-1993	Till date	Less than 4 hours	Yes
35.	Nagpur	Panchabudhe Smt. Ranjana	Sept. 1996	Till date	Less than 4 hours	Yes	54.	Nagpur	Mahato Smt. Sunita B.	10-9-1993	Till date	Less than 4 hours	Yes
36.	Nagpur	Jamkar Ramu Manu.	1987	Dis-continued	—	No	55.	Nagpur	Raut Kamalabi S.	1-6-1994	Till date	Less than 4 hours	Yes
37.	Nagpur	Patil Suraj Govindrao	3-7-1998	Till date	Less than 4 hours	Yes	56.	Nagpur	Khandpasode Sunita.	1-12-1993	Till date	Less than 4 hours	Yes
38.	Nagpur	Khichar Smt. Nanda O.	7-9-1999	Till date	Less than 4 hours	Yes	57.	Nagpur	Jambhulkar Smt. K.M.	10-7-1993	Till date	Less than 4 hours	Yes
39.	Nagpur	Rane Sanjeev Sitaram	Jan. 1996	Till date	Less than 4 hours	Yes	58.	Nagpur	Nagpure Smt. Kusum R.	3-4-1991	Till date	Less than 4 hours	Yes
40.	Nagpur	Mahale Shobha G.	1-9-1993	Till date	Less than 4 hours	Yes	59.	Nagpur	Wankhede Smt. Vijaya R.	4-4-1991	Till date	Less than 4 hours	Yes
41.	Nagpur	Moon Smt. Kusum S.	Jun. 1999	Till date	Less than 4 hours	Yes	60.	Nagpur	Raut. Dhanbaji S.	26-7-1990	Till date	Less than 4 hours	Yes
42.	Nagpur	Aole Manohar K.	Sept. 1999	Till date	Less than 4 hours	Yes	61.	Nagpur	Nagpure D.M.	1-3-1991	Till date	Less than 4 hours	Yes
43.	Nagpur	Belekar Smt. Prabhawati.	July, 1998	Till date	Less than 4 hours	Yes							
44.	Nagpur	Raut Smt. Rasika A.	1-4-1997	Till date	Less than 4 hours	Yes							

(1) (2)	(3)	(4)	(5)	(6)	(7)
62.	Nagpur Nagare Smt. Manoram K.	1-5-1987	Till date	Less than 4 hours	Yes
63.	Nagpur Thul Deepak S.	3-4-1992	Till date	Less than 4 hours	Yes
64.	Nagpur Yadav Rajesh G.	7-12-1998	Till date	Less than 4 hours	Yes
65.	Nagpur Meshram Rajhesh	11-1-1999	Till date	Less than 4 hours	Yes
66.	Nagpur Nimgade Prashant	6-1-2000	Till date	Less than 4 hours	Yes
67.	Nagpur Nehare Murlidhar	28-5-1998	Till date	Less than 4 hours	Yes
68.	Nagpur Lohia Gajendra S.	1-12-1998	Till date	Less than 4 hours	Yes
69.	Nagpur Raut Prashant G.	13-7-1999	Till date	Less than 4 hours	Yes
70.	Nagpur Ladaskar R.B.	27-5-1998	Till date	Less than 4 hours	Yes
71.	Nagpur Meshram Suresh A.	27-5-1998	Till date	Less than 4 hours	Yes

नई दिल्ली, 23 अगस्त, 2012

का.आ. 2925.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 10/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-2012 को प्राप्त हुआ था।

[सं. एल-41012/207/2003-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 23rd August, 2012

S.O. 2925.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow, now as shown in the Annexure, in the Industrial Dispute between the management of N. Eastern Railway and their workman, which was received by the Central Government on 21-8-2012.

[No. L-41012/207/2003-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

Dr. Manju Nigam, Presiding Officer

I.D. No. 10/2004

Ref. No. L-41012/207/2003-IR (B-I) dated : 2-1-2004

BETWEEN

The Divisional President,
N. Eastern Railway Shramik Sangh,
96/196, Old Ganeshganj,
Lucknow (U.P.)-226001
(Espousing cause of Shri Ram Sewak)

AND

1. The Sr. Divl. Engineer,
North Eastern Railway,
DRM Office, Ashok Marg,
Lucknow (U.P.)-226001

2. The Assistant Engineer,
Sitapur

Sr. Section Engineer (Railpath),
Lakhimpur

AWARD

By Order No. L-41012/207/2003-IR (B-I) dated 2-1-2004 the Central Government in the Ministry of Labour, New Delhi in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Divisional President, N. Eastern Railway Shramik Sangh, 96/196, Old Ganeshganj, Lucknow and the Sr. Divl. Engineer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow and the Assistant Engineer, Sitapur and Sr. Section Engineer (Railpath), Lakhimpur for adjudication.

2. The reference under adjudication is :

“KYA PUROTTAR RAILWAY PRABANDHAN DWARA SHRI RAM SEWAK PUTRA SHRI DEENDAYAL PRAVAR GANGMAN, GRAAM KHADOSIA, POST BHALIA BUJURG, DISTRICT LAKHIMPUR KO JANUARY, 2000 SE VARISHTHATA KRAM MAIN VARIYATA ANUSAAR KEYMAN KE PAD PAR PADDONNAT NA KIYA JANA TATHA USE KANISHTH KARMKAARON KO KEY MAN KE PAD KA

PADDONNATI KAABH ANUMANYA KRAYA
JANA UCHIT TATHA NAYYSANGAT HAI? YADI
NAHI TO KAAMGAAR KIS RAAHAT KO PANE
KA ADHIKAARI HAI?"

3. The case of the workman's union, in brief, is that the workman, Ram Sewak had been employed with the opposite party since 17-1-1973; but the management had denied him promotion; whereas other workman, junior to him were promoted w.e.f. January, 2000 viz. Shri Shri Ram, Chote Lal, Bihari, Ram Prasad, Dulare and Gullu whose date of employment is 21-5-73, 23-1-73, 4-10-73, 31-1-73, 8-9-75 and 17-1-73 respectively. The workman's union has alleged that workman, being senior most out of all above mentioned workmen, should have been promoted to the post of Key Man at first of all; but the management deprived him of the said benefit; hence the action of the management being against the principles of natural justice is liable to be quashed; and accordingly has prayed that the management be directed that the workman be given benefits of the post of Key Man, treating him promoted w.e.f. January, 2000.

4. The management of the railway has filed its written statement, denying the claim of the workman's union; wherein it has submitted that the workman while working as Gangman at Biswan, Sitapur was mutually transferred to Kheri at his own request vide order dated 12-2-98; wherein it was specifically mentioned that the workman shall be given seniority as per Rules. Accordingly, he was given seniority as Rule 312 of the Indian Railway Establishment Manual, hence, on his joining at Kheri, all the workmen, claimed to be junior by the workman, became senior to the workman; and accordingly, they were given promotion, therefore, there is no illegality or infirmity in the action of the management. Thus, the management of railways has prayed that the claim of the workman's union be rejected without any relief to the workman concerned.

5. The workman's union has filed its rejoinder; wherein it has not brought any new fact apart from reiterating the averments already made by it in its statement of claim.

6. The workman's union has filed photocopy of certain documents in support of its claim vide list of documents dated NIL, Paper No. C-17, which includes photocopy of pay slips in respect of the workman and other workmen claimed to be junior by the workman. He has not filed any original document. On the contrary the management has filed photocopy of the order 12-2-08 regarding mutual transfer of the workman.

7. After completion of the pleading 11-10-2006 was fixed for filing evidence by the workman's union, which it did not file even after lapse of several dates then vide order dated 31-3-2007 it was presumed that the workman does not want to file any evidence and accordingly, the opposite party was called upon to file its evidence on 31-3-2007. The workman moved application C-41, to recall the ex-parte order

dated 31-3-2007, which was allowed, giving opportunity to the workman to file its evidence on 28-6-2007. The workman's union again failed to file any evidence; and accordingly after passing of several dates; opportunity to file workman's evidence was closed vide order dated 24-9-2008 and 15-12-2008 was fixed for management's evidence.

The workman's union again filed application C-44 to recall ex-parte order dated 24-9-2008, which was rejected in default of non-persuasion and date for management's evidence was fixed. The workman's union once again filled to recall application W-45, which was allowed vide order dated 19-8-2009. Also, the workman's evidence was filed on the same date; hence next date 9-10-2009 was fixed for cross-examination of the workman's witness. Neither authorized representative nor workman appeared on 9-10-2009 and 27-11-2009 for cross-examination, which led to ex-parte order against the workman and next date 24-12-2010, was fixed for management's evidence.

The management also did not turn up on several dates to file its evidence; and accordingly, it was presumed that the opposite party is not interested in filing evidence, hence the opportunity of evidence was closed vide order dated 21-11-2010 and next date 15-12-2010 was fixed for argument.

8. The case is being listed for arguments since 15-12-2000 and since then neither of the parties come forward to make their oral submissions. Accordingly, the file is reserved for award keeping in view the reluctance of the parties to contest their case and the fact that the case pertain to year 2004.

9. It was the case of the workman's union that the workman has been deprived of promotion; whereas juniors to him had been promoted by the management of the railway. The workman's union has filed photocopy of certain documents in support of his contention; but has not proved them. It has filed its evidence but has not turned up for cross-examination.

10. Per contra, the management of the railway has disputed the claim of the workman's union and has submitted that since the workman had been transferred mutually on his own request, therefore, he become junior to the confirmed Gangmans at joining station; and accordingly, the workmen who are being claimed to be junior became senior to the workman and hence, they were promoted ignoring the workman. The management has filed photocopy of the transfer order in support of their case, though has not produced any witness in support thereto.

11. I have scanned entire, evidence on record. The workman's union has come forward with the case that the workman had not been given promotion; whereas the juniors to him were promoted and accordingly, the management of the railways be directed to allow the

workman benefits, treating him promoted w.e.f. January, 2000 when juniors to him were promoted. For this, it was incumbent upon the workman's union to lead an evidence to the effect that he was actually senior to the workmen who have been promoted by the management through cogent evidence.

12. The workman's union though filed affidavit of the workman but has not turned up for cross-examination, which led to non-appreciation of his affidavit in evidence. Thus, there was no oral or documentary evidence to support the case to substantiate his pleadings that alleged injustice was done to him. Mere pleadings are no substitute for proof. It was obligatory on the part of workman to come forward with the case that the alleged illegality was done to him, ignoring Rules; but the workman failed to put forward any evidence in support of its claim, as it did not turn up for cross-examination.

13. It is well settled that if a party challenges the legality of order, the burden lies upon him to prove illegality of the order and if no evidence is produced by the party, invoking jurisdiction of the court, must fail. In the present case burden was on the workman's union to set out the grounds to challenge the validity of the attitude of the management of railways regarding not promoting him before his juniors. It was the case of the workman's union that the workman has been deprived of the fruits of the promotion to which he was entitled whereas the juniors to him were promoted by the railway administration. This claim has been denied by the management; therefore, it was for the workman's union to lead evidence to show that the alleged injustice was being done to the workman.

14. In 2008 (118) FLR 1164 M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary Vs. Presiding Officer, Labour Court (II), Ghaziabad and others, Hon'ble High Court relied upon the law settled by the Apex Court in 1979 (39) FLR 70 (SC) Sanker Chakravarti Vs. Britannia Biscuit Co. Ltd., 1979 (39) FLR 70 (SC) V. K. Raj Industries Vs. Labour Court and Others, 1984 (49) FLR 38 Airtech Private Limited Vs. State of U.P. and others and 1996 (74) FLR 2004 (All.) Meritech India Ltd. Vs. State of U.P. and others; wherein it was observed by the Apex Court:

"that in absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

15. As per Rule 312 of the Indian Railway Establishment Manual, stipulates the relevant provisions for 'Transfer on Request'; and the manner in which the

applicant's seniority will be allotted in cases. The said Rule is reproduced hereunder :

312. Transfer on Request – The seniority of Railway Servants transferred at their own request from on Railway to another should be allotted below that of the existing confirmed, temporary and officiating Railway Servants in the relevant Grade in the promotion Group in the new establishment irrespective of the date of confirmation or length of officiating or temporary service of the transferred railway servants.

Note : (i) This applies also to cases of transfer on request from on cadre/division to another cadre/division on the same railway.

(Rly. Bd. No. E(NG) I-85 SR 6/14 of 21-1-1986)

A bare perusal of the above Rule clarifies the position that on transfer of the workman from Biswan, Sitapur to Kheri at his own request vide order dated 12-2-98, he became junior to all confirmed employees of the grade at Kheri; and the said position was clearly mentioned in the transfer order dated 12-2-98.

16. In the present case the workman's union has not turned up to substantiate its case by way of oral evidence. Mere pleadings are no substitute for proof. It was obligatory on the part of workman's union to come forward with the case that the workman had not been promoted whereas other workmen junior to him had been promoted by the management; but the workman's union failed to forward any substantive evidence in support of its claim, as it did not turn up for cross-examination before this Tribunal. There is no reliable material for recording findings that the alleged injustice was done to the workman or the action of the management of the North Eastern Railway, in not promoting the workman, Ram Sewak w.e.f. January, 2000 was illegal and unjustified.

17. Accordingly, the reference is adjudicated against the workman's union; and as such, I come to the conclusion that the workman, Ram Sewak is not entitled to any of the relief claimed by him.

18. Award as above.

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2926.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 109/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2012 को प्राप्त हुआ था।

[सं. एल-41011/8/2003-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 24th August, 2012

S.O. 2926.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 109/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of Eastern Railway, Ashok Marg, and their workman, which was received by the Central Government on 24-8-2012.

[No. L-41011/8/2003-IR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

Dr. Manju Nigam, Presiding Officer

I.D. No. 109/2003

Ref. No. L-41011/8/2003-IR (B-I) dated : 26-9-2003

BETWEEN

Member :

Central Working Committee,
Eastern Railway Shramik Sangh,
96/196, Old Ganeshganj,
Lucknow (U.P.)-226001
(Espousing cause of Shri Chandra Kishore)

AND

The Divisional Railway Manager (W),
Eastern Railway, DRM Office,
Ashok Marg, Lucknow/
Asstt. Engineer,
O/o Asstt. Engineer, Eastern Railway,
Sitapur

AWARD

By Order No. L-41011/8/2003-IR (B-I) dated 26-9-2003 the Central Government in the Ministry of Labour, New Delhi in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Member, Central Working Committee, Eastern Railway Shramik Sangh, 96/196, Old Ganeshganj, Lucknow and the Divisional Railway Manager (W), Eastern Railway, DRM Office, Ashok Marg, Lucknow/Asstt. Engineer, O/o Asstt. Engineer, Eastern Railway, Sitapur for adjudication.

2. The reference under adjudication is :

“KYA PRABANDHAN³ PUROTTAR RAILWAY LUCKNOW DWARASHRI CHANDRA KISHORE PUTRA SWA. MADAN LAL, VALVEMAN VETANMAAN 2650-4000 KO 1986 SE LIPIK PAD KE PADDONNATI LAABH SE VANCHIT RAKHNA EVAM 7 KANISHTHA KARMKAAR KO LIPIK KE PAD KA PADONNATI LAABH DIYA JAANA UCHIT TATHA VAIDHANIK HAI ? YADI NAHI TO SAMBANDHIT KARMKAAR KIS ANUTOSH KA ADHIKAARI HAI ?”

3. The case of the workman's union, in brief, is that the workman, Chandra Kishore had initially been employed w.e.f. 16-10-65 and later appointed permanently w.e.f. 25-11-71 on the post of Gang Man. It has been submitted that the work of Stores Clerk had been taken from the workman since 25-11-71 to 12-1-76 for which approval had been taken. It had been alleged that when the workman requested for giving benefits available to the post of Clerk in the year 1976, he was removed from the office without any fault in July, 1976. It has been further alleged that the workman participated in the Trade Test for Clerk in the year 1986; and he succeeded also but he was not promoted by the management; whereas juniors to him were promoted by making alteration in the seniority list whereby the name of the workman was shifted from Serial No. 4 to 58. Accordingly, the workman's union has prayed that the action of the management in not promoting the workman since 1986 be declared invalid and he be deemed promoted since year 1986 with consequential benefits.

4. The management of the railway has filed its written statement, denying the claim of the workman's union; wherein it has submitted that the post of Valveman comes under category of Group 'D' post whereas that of a clerk comes under Group 'C' category and for promotion from Group 'D' to Group 'C' category a workman has to pass the prescribed test, and since the workman never passed the selection/test for promotion, he was not promoted from Valveman to Clerk; and accordingly his claim is liable to be rejected without any claim to the workman's union.

5. The workman's union has filed its rejoinder: wherein it has not brought any new fact apart from reiterating the averments already made by it in its statement of claim.

6. The workman's union has filed photocopy of certain documents in support of its claim vide list of documents dated 25-4-2005, paper No. C-19, which includes list of employees for selection from Class IV to Class III, Clerk Grade under 33 and 1/3% quota and list of employees found suitable for interview after written examination. The management has also filed documents in support of their stand.

7. The management of the railways filed evidence of Shri R. Sahai, Asstt. Divisional Engineer on 19-12-2006 and subsequently that of Shri Rajeev Pachauri, Asstt. Divisional Engineer on 20-5-2009; but could not produce any its witness for cross-examination on several dates on one pretext or the other; and accordingly, the case was fixed for argument on 8-9-2011. On subsequent date the management moved application, D-44 for permitting to produce its witness for cross-examination, which was allowed and 18-11-2011 was fixed for cross-examination of the management witness. The management witness, Shri Rajeev Pachauri was present on 18-11-2011 and 9-1-2012 but the workman did not avail the opportunity; in as much as the workman as well as his authorized representative remained absent on 9-01-2012; and accordingly, the opportunity to cross-examine the management witness was closed and 29-2-2012 was fixed for argument.

8. The case is listing for arguments since 29-2-2012 and since then neither of the parties come forward to make their oral submissions. Accordingly, the file is reserved for award keeping in view the reluctance of the parties to contest their case and the fact that the case pertain to year 2003.

9. It was the case of the workman's union that the workman has been deprived of fruits of promotion by making alterations in the seniority list; whereby the juniors to him had been promoted by the management of the railway. The workman's union has filed photocopy of certain documents in support of his contention.

10. Per contra, the management of the railway has disputed the claim of the workman's union and has submitted that there is prescribed procedure for promotion from Group 'D' to Group 'C' category and the post of Valveman comes under category of Group 'D' post whereas that of a Clerk comes under Group 'C' category and for promotion from Group 'D' to Group 'C' category a workman has to pass the prescribed test, and since the workman never passed the selection/test for promotion, he was not promoted from Valveman to Clerk. The management has filed photocopy of certain documents in support of their case and has proved them through their witness as per details given hereunder :

- (i) Circular No. E/II/210/Minis/Eng. dated 24-2-1989 regarding selection under 33-1/3% quota from Class IV category to Class III category of Clerk/Time Keeper/Store Clerk (950-1500), paper No. 28/4 and 28/5.
- (ii) Circular dated 27-4-89, notification regarding date, time and place etc. for the written test and interview with the list of candidates, paper No. 28/6 to 28/10.

- (iii) Notification No. E/SS/Engg/Selection/Class III/89 dated 26-5-1989, list of successful candidates, paper No. 28/11 and 28/12.

11. The workman's union has come forward with the case that the workman had not been given promotion by making alteration in the seniority list; whereas the juniors to him were promoted and accordingly; the management of the railways be directed to allow the workman benefits of the post of clerk since 1986.

12. The workman's union has examined the workman in support of their case who has stated on oath that he worked as stores clerk from 25-11-1971 to 12-1-1976; whereas he was paid for the salary of Gangman. He further stated that when he requested for benefits available to the post of clerk, he was separated from the work of clerk. He stated that he appeared in the trade test for the post of clerk in the year 1986 and got succeeded in the same; but was deprived of the benefits of promotion. He also stated that his name was at serial no. 4 in the list of persons who succeeded in the written examination and found eligible for interview. He further stated that the railway administration disturbed the said seniority list and altered his seniority; whereby his name was replaced from serial No. 4 to 58 and accordingly, he was deprived of promotion whereas one Shri Jai Narayan who was at serial No. 27 was promoted from class IV to class III. In cross-examination he has stated that he appeared in written test in the year 1986, 1990 and 1992 and he succeeded in the year 1986 and 1992. He further stated that he did not give any written representation; but kept on requesting orally on which he was assured but was not promoted. He also stated that he never worked in the store and that he came to know of the mistake in the seniority list in the year 1992; but he did not move any written representation for making correction in the seniority list. He stated that when he appeared for promotion test for the three times then he found no irregularity in it. He further stated that he is aware that for promotion from class IV to class III, interview is necessary. During cross-examination the workman could not answer as to what was his age in the year 1956 or when did he pass the High School Examination.

13. In rebuttal, the management filed evidence of Shri Rajeev Pachauri, Asstt. Divisional Engineer who stated on oath that it is only after passing the prescribed written test/selection process, prescribed for promotion of a Group 'D' staff to Group 'C', an employee can be promoted from Group 'D' staff to Group 'C' and since the workman never succeeded to be eligible for promotion as a clerk (Class III) he was not promoted. He has annexed documents in support of his statements. The workman's union did not turn up for cross-examination of the management witness.

14. The workman's union has come forward with the case that the workman though appeared in the trade test in the year 1986, 1990 and 1992 and got succeeded in the year

1986 and 1992 but he was not promoted as the management of the railways altered his seniority from serial No. 4 to serial No. 58, which resulted into his non-promotion; whereas the juniors to him were promoted. He has relied on the notification dated 18-2-1992, paper No. 20/10 to 20/12; wherein his name finds reference at serial No. 4. He has also relied on the list dated Nil, paper No. 20/6 to 20/9; wherein his name finds reference at serial No. 58. The workman has claimed that above two lists are seniority list, the first one is with his name at serial No. 4 whereas the management after making alteration in the same has reflected his name at serial No. 58 in the second list, paper No. 20/6, to 20/9, just to deprive the workman of the promotion. These lists are the sole basis of the contention of the workman that his seniority had been disturbed by the management, resulting into his non-promotion.

15. Per contra, the management of the railways has denied of making any alteration and has submitted that the workman actually could not qualify the trade test which resulted into his non-promotion.

16. I have scanned entire evidence on record, documentary as well as oral, in the light of rival contentions of the parties. The sole contention of the workman regarding depriving him of the benefits of promotion is based on the alleged alteration of the seniority list. He has relied on the paper No. 20/6 to 20/12 in this regard. But on scrutinizing the paper No. 20/10 to 20/12, it comes out that it is not a seniority list but is simply a notification, notifying the names of the candidates who have qualified the written test and are found eligible for interview. Further, the paper No. 20/6 to 20/9, claimed to be the altered seniority list, is actually list of employees/candidates for selection from Class IV to Class III, Clerk and the same is not a seniority list.

Furthermore, the workman in his cross-examination has stated that he came to know of the mistake in the seniority list in the year 1992; but he did not move any written representation for making correction in the seniority list. He stated that when he appeared for promotion test for the three times then he found no irregularity in it. He has also stated that he is aware that for promotion from class IV to class III, interview is necessary.

17. Thus, from the testimony of the workman himself it becomes apparent that there was no irregularity or infirmity with the selection procedure adopted by the management as the workman himself has certified the same. Further, when the workman first came to know of the mistake in the seniority list in the year 1992 then it was incumbent upon him to represent before the concerned authority for necessary correction as the main motto of notifying the seniority list is to make the employees know of their seniority and to call for objections, if any. But the workman in his evidence has admitted that he never made any written representation to correct the mistake in the seniority list, which is fault on the part of the workman. Even if it is taken

for the argument sake that the seniority list was defective then the workman must have come forward with his cause, in writing, to facilitate the management in scrutinizing his claim and making necessary correction, if required. The failure of the workman in making representation may be presumed to be his acceptance to the seniority list and now he cannot agitate the veracity of the case at this point of time.

18. Moreover, the workman himself has certified that genuineness of the selection procedures, adopted in the years 1986, 1990 and 1992, then there lefts no dispute regarding foul play on the part of the management of the railways.

19. In view of the discussions, made above, I am of the considered opinion that for promotion from Class IV to Class III, it was obligatory to the workman to go through the due selection procedure/trade test and the workman undergone the same; but due his failure to succeed the same, he could not be promoted from valveman, Class IV post to Clerk, Class III post. In the circumstance, the reference order is answered in positive, in favour of the management and I come to the conclusion that the action of the management of the North Eastern Railway, Lucknow in depriving the workman from the benefit of the promotion is not unjust and illegal; and accordingly, the workman, Chandra Kishore, is not entitled for any relief.

20. Award as above.

Lucknow

6-8-2012

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का. आ. 2927.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, धनबाद के पंचाट (संदर्भ संख्या 40/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2012 को प्राप्त हुआ था।

[सं. एल-20012/54/2008-आई आर (सीएम-1)]

अजीत कुमार, अनुष्ठापन अधिकारी

New Delhi, the 24th August, 2012

S.O. 2927.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/2008) of the Central Government Industrial Tribunal-cum-

Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 24-8-2012.

[No. L-20012/54/2008-IR (CM-I)]
AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute U/s. 10(1)(d) of the
I.D. Act, 1947

Reference No. 40 of 2008

PARTIES:

Employers in relation to the management of
Sijua Area of M/s. B.C.C. Ltd.

APPEARANCES:

On behalf of the Workman : None

On behalf of the Employers : Mr. D. K. Verma,
Advocate

STATE : Jharkhand INDUSTRY : Coal

Dhanbad, the 20th March, 2012

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947, has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/54/2008-IR (CM-I), dated, the 1st July, 2008.

SCHEDULE

“Whether the action of the management of Sendra Bansjora Colliery under Sijua Area of M/s. BCCL in dismissing Sh. Lakhan Chauhan, SDL Operator from the services of the company w.e.f. 13-10-2007 is legal and justified ? (ii) To what relief is the concerned workman entitled ?”.

2. None represented either workman or their sponsoring union. Perused the case record, I find that the case has been pending for filing Written Statement of the workman since 31-3-2011, for which Registered notices dated 31-1-2011, 20-5-2011, 27-9-2011 and 9-2-2012 and Show Cause notice dated 4-11-2011 were issued to their Union Representative on its address as noted the Reference. The Branch President, Bihar Colliery Kamgar Union, Kusunda

Area Office Branch, PO—Kusunda, Dhanbad, Mr. D. K. Verma, Ld. Advocate for the management is present. It appears that in spite of giving sufficient opportunity, the union representative/workman never appeared to pursue the case on account of their disinterestedness.

In view of the aforesaid facts, proceeding with the case for uncertainty is worthless and wastage of time. Therefore, the case is closed and accordingly an order of no industrial dispute existent is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का. आ. 2928.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कॉर्पोरेशन ऑफ इण्डिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (आई डी संख्या 17/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2012 को प्राप्त हुआ था।

[सं. एल-11012/58/2009-आई आर (सीएम-1)]
अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2928.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of NACIL and their workman, which was received by the Central Government on 24-8-2012.

[No. L-11012/58/2009-IR (CM-I)]
AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri Ved Prakash Gaur, Presiding Officer

Dated the 8th day of April, 2011

Industrial Dispute No. 17/2010

BETWEEN:

The Regional Secretary,
Air Corporation Employees Union,
Indian Airlines Limited,
Hyderabad-500016

... Petitioner

AND

1. The General Manager (Finance),
Southern Region, NACIL, Airlines House,
Meenambakkam, Chennai
 2. The DGM (Finance),
NACIL, Police Lines, Begumpet,
Hyderabad – 500 016
- ... Respondents

APPEARANCES :

- For the Petitioner : NIL
- For the Respondent : M/s. K. Srinivasa Murthy,
V. Umadevi & M V L Narsaiah,
Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-11012/58/2009-IR (CM-I) dated 30-3-2010 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of NACIL and their workman. The reference is as under :

SCHEDULE

“Whether the demand of Air Corporations Employees’ Union from the Management of National Aviation Company of India Limited for promotion of Ms. M. Bhagyalaxmi, Accounts Superintendent as Accounts Superintendent (SG) grade 9 w.e.f. 1-11-2007 is justified and legal ? To what relief is the workman concerned entitled ?”

The reference is numbered in this Tribunal as I.D. No. 17/2010 and notices were issued to the parties.

2. Petitioner absent even after service of notice through register post. On 8-4-2011 both parties called absent. In absence of parties the reference is answered in negative. Accordingly a ‘Nil’ Award is passed, Transmit.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2929.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबंध निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय नं.-2, धनबाद के पंचाट (आई डी संख्या 122/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2012 को प्राप्त हुआ था।

[सं. एल-20012/541/2000-आई आर (सी एम-1)]
अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2929.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 122/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL and their workman, which was received by the Central Government on 24-8-2012.

[No. L-20012/541/2000-IR (CM-I)]
AJEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD**

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 122 of 2001

PARTIES:

Employer in relation to the management of Jeenagora Colliery of M/s. BCCL and their workman.

APPEARANCES:

- | | |
|---------------------------|------------------------------------|
| On behalf of the Workman | : Mr. D. Mukherji,
Ld. Advocate |
| On behalf of the Employer | : Mr. D. K. Verma,
Ld. Advocate |

State : Jharkhand

Industry : Coal

Dhanbad, the 11th April, 2012

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/541/2000 (CM-I) dated 29-3-2001.

SCHEDULE

“Whether the stand of the management of Jeenagora Colliery in not accepting the date of birth of Sri Kabindra Sharma as 24-9-1953 as recorded in his Matriculation Certificate is justified ? If not, to what relief is the workman entitled ?”

2. The case of the sponsoring union for the workman Kabindra Sharma in brief is that he was originally appointed as permanent workman on 20-10-1971. At that time, his date of birth (DOB) was recorded as 24-9-1953 in the Form 'B' Register of erstwhile Employer in accordance with his matriculation and School Leaving Certificate which is acceptable as per JBCCI decision, according to which a last opportunity is to be afforded to all the employee of the Coal Industry for rectification of date of birth and other entries in the records of the Management, if the statutory record not properly maintained. The age as recorded in Service Excerpt would be final if no objection raised, but in the case of an objection to it, the workman concerned would be referred to the Apex Medical Board for age determination. Though he accepted his date of birth as 24-9-1953 as recorded by signing it, the management returned the same (excerpt) by overwriting '3' as '0', interpolating the entries of his date of birth as 1950 in his back illegally. His industrial dispute raised by the Union before the A.L.C. (C), Dhanbad on its failure in reconciliation resulted in the reference for adjudication. The action of the management in not accepting his aforesaid birth date is unjustified. The union for the workman in its rejoinder has categorically denied the allegation of the management.

3. Adversely pleaded case of the management full of specific denial is that the present case filed over delay after 28 years is unmaintainable; that the workman was working at Jeenagora Colliery and accordingly his date of birth as 24-9-1950 was recorded in the Form 'B' Register, which is a statutory Register under the Mines Act and the date of birth recorded in the Register is final. The workman put his signature in the Form Register and accepted the entries made therein just as in his Service Excerpt in the year 1987, when any objection was invited from him, but he did not raise any objection to any entry made therein. As per the Matriculation Certificate he passed Matriculation in the year 1970, but he did not produce his aforesaid certificate at the time of his joining or later on before raising dispute. As the official record has no discrepancy, the instruction for correction of his birth date is unapplicable to the present case. Categorically pleading of the management in its rejoinder is that the birth date of the workman was never recorded as 24-9-1953.

FINDING WITH REASONING

4. In this case, WW I Kabindra Sharma, the workman for the Union and MW I Jagdish Rabidas, the Clerk of Jeenagora Colliery for the management have been examined.

The perusal of the material evidences as adduced in behalf of both the parties manifests the admitted facts as such :

- (i) The workman appointed as Cap Lamp Fitter at Jeenagora Colliery on 22-10-1971 since factually he started to work.

- (ii) At the relevant time of his appointment, the said colliery used to be operated through custodian appointed by the Central Government. After nationalisation, he got his appointment at the said colliery, but the management did not issue him any letter of appointment.

- (iii) The workman though passed matriculation in 1970, got his Matriculation Certificate in the year 1984-85.

- (iv) The workman also put his signatures on his Form 'B' Register (Ext. M. 1) and his Service Excerpt dt. 25-9-1987 (Ext. M. 2 and Ext. W. 2) both the same.

5. Mr. D. Mukherjee, the Learned Advocate for the Union/Workman submits that Tribunal cannot widen the scope of the enquiry beyond the terms of reference [SCLJ-V-4 page 2307, Delhi Cloth and Gen. Mills Co. Vs. their workman = LLJ (1) 1967 page 423 (SC)]. Factually the Tribunal has to respond/adjudicate in the terms of the reference. Further it is to submit on his behalf that as per Implementation Instruction No. 76, age determination is to be done at the time of appointment firstly on the basis of matriculation certificate, if available, in fact the said instruction indicates that in the case of appointee, who have passed matriculation or equivalent examination, the date of birth recorded in the certificate shall be treated as correct date of birth and the same cannot be altered under any circumstance' [2005 (3) JCJR (SC) 209, Awadh Singh Vs. M/s B.C.C.L.]. But in view of the aforesaid admission of the workman that he though passed Matriculation in 1970 yet got its certificate in 1984-85, his evidence of submitting two representations dt. 5-9-1994 and 19-10-1987-Extt. W.3 and 3/1 respectively in the lack of such pleading is inadmissible in eye of the law. His both Service Excerpts dt. 29-5-1987 (Ext. M-2 and W-2, the former a carbon copy of the letter original one respectively) bear his date of birth as 24-9-1950 after correcting figure 0 over 3 as per P.F. Record under the signatures of the Authority concerned and the workman on the first and back page of the Service Excerpt respectively as also proved by M.W. 1. His alleged representation dt. 19-10-87 (Ext. W 2/1) in carbon copy bears sketches of a duck flower, a child etc. on its left side margin, so it is palpably not natural one except created one for his claim. The conduct of the workman adversely proves that he did not make his Matriculation Certificate available to the Management at the relevant time of nationalisation of the erstwhile colliery where he was already appointed by the former owner thereof, so admittedly the management was no required to issue afresh appointment because as per his P.F. record, the Form 'B' Register (Attested copy-Ext. M.1) bearing the passport size photo and signature of the workman evidently stand the acceptance of his date of birth as 24-9-1950 with his all specific particulars of

employment. The Form-B (Ext. M-1), the statutory Register of the present Colliery Management has vividly any overwriting over the figure '3' as '0' of the year 1950 as contrasted with his Service Excerpts (in duplicate) (Ext. W 2 = Ext. M-1).

6. Relying upon these rulings :

2007 (114) F. L. R 7555 (DB) Ramanand Tiwary Vs. IISCO 2008 (3) JLJR 3, Digvijay Singh V. C. C. Ltd., Relied on 2007 (3) JLJR 726, Kamta Pandey Case 2010 (1) JLJR 678, Bhagwat Singh V.C. C. Ltd.,

(All J.H.C.)

With reference to the I. I. No. 76 of NCWA III and 2007 (115) FLR 890, Raj Raangi Rabidas Vs. Chairman

(Cal H.C.)

Mr. Mukherji, Learned Counsel for the Union argued that according to I. I. No. 76 of the NCWA III, the date of birth as recorded in the Matriculation Certificate is conclusive proof of age but no other records including service ones so the workman is entitled to it.

7. Whereas the contention of Mr. Verma, the Ld. Advocate for the Management is that the workman has clearly admitted his date of birth recorded in the Form-B Register as well as his service excerpts under his signature; though the C. S. O. (Certified Standing Order) prescribes for the application of the workman for correction of his date of birth within five years of his appointment, the workman applied for it after more than 20 years which is contrary to the law.

8. On the consideration of the materials on the record, I find that though the workman passed his Higher Secondary Examination in the year 1970 prior to his appointment and got his Matriculation Certificate in 1984-85, he began to reckon up the controversy for correction of his date of birth much later, yet no justice was meted out to him by the Management. The argument of Mr. D. Mukherji, the Ld. Advocate for the Union/workman as I am also of the news as held by the Hon'ble High Court Jharkhand, preponderates that of Mr. D. K. Verma, the Ld. Counsel for the Management. Since the Management Authority is bound by the Instruction No. 76 of NCWA III in respect of the determination of age of the workman as recorded in his Matriculation Certificate bearing his date of birth as 24th Sept., 1953, and to retreat his date of birth as correct for his service.

9. Under the circumstances, it is held that the stand of the Management of Jeenagora Colliery in not accepting the date of birth of workman Kabindra Sharma as 24-9-1953 as recorded his Matriculation Certificate is totally unjustified. Hence the workman is entitled to reinstatement in his service with back wages after correcting his date of birth as recorded in his Matriculation Certificate. The

Management concerned is directed to implement the award with one month from the date of its receipt after its publication in the Gazette of India.

KISHORI RAM, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2930.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कार्पोरेशन ऑफ इण्डिया लिमिटेड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, मुम्बई के पंचाट (आई डी संख्या सी जी आई टी-2/27 का 2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2012 को प्राप्त हुआ था।

[सं. एल-11012/13/2010-आई आर (सी एम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2930.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-2/27 of 2010) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of NACIL and their workman, which was received by the Central Government on 24-8-2012.

[No. L-11012/13/2010-IR (CM-1)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT:

K. B. KATAKE, Presiding Officer.

Reference No. CGIT-2/27 of 2010

Employers in relation to the management of National Aviation Company of India Ltd.,
(Air India Ltd.).

The Chairman and Managing Director,
National Aviation Co. of India Ltd.
(Air India Ltd.)
Air India Building
Mumbai-400 021.

AND

Their Workman.

Shri Deepak Prabhu
H. No. 504,
Om Krishna Co-op. Hsg. Society Ltd.,
River Park Complex
Rawalpada, Dahisar (East)
Mumbai-400 068.

APPEARANCES:

- For the Employer : Mr. L. L. D'Souza,
Representative.
- For the Workmen : Adv. Ms. Gayatri Singh,
Adv. Ms. Bhavana Mhatre,
Also in person.

Mumbai, date the 31st March, 2011.

AWARD PART-II

The Government of India, Ministry of Labour and Employment by its Order No. L-11012/13/2010-IR (CM-I), dated 25-3-2010 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of National Aviation Company of India Ltd., Mumbai in terminating the services of Shri Deepak Prabhu, Sr. Storekeeper w.e.f. 25-2-2000 is legal and justified ?
(i) To what relief is the workman concerned entitled ?"

2. After receipt of the Reference, both the parties were served with notices. In response to the notice, the Second Party workman filed his statement of claim at Ex. 9. According to him, he is in the service of the first party company since July, 1986. He was confirmed in the service in March, 1987. He was promoted in the year 1992, to the post of Senior Storekeeper, after considering his good and unblemished service record. According to him, he was active member of Air India Employees Guild Union, recognised by First Party Company. In December 1996 the leadership of the Union was changed and new office bearers took over the charge.

3. According to him on 18-1-1996 the First Party Company issued a charge sheet against him making number of false allegations. The charge sheet was vague, false and fabricated. It was issued in order to victimise him. The Second Party workman replied the charges sheet vide his letter dated 21-9-1996. He denied all the charges and allegations levelled against him. The First Party Company has not accepted the explanation of Second Party workman and initiated disciplinary proceedings against him. They did not follow the enquiry procedure. One of the Officer Mr. Lakhra though has no concern with the enquiry proceedings started interfering in the enquiry proceedings.

4. The Second Party workman moved to Conciliation Officer under the provisions of I.D. Act. A settlement dated 17-1-1997 was signed by the parties. It was agreed that Mr. Lakhra and Mr. Kohli the Enquiry Officer would neither be the Conveyor nor the Member of Enquiry Committee, in the enquiry against the workman. They issued second

charge sheet dated 20-1-1998 with four additional charges. Pending enquiry they illegally suspended the Second Party workman w.e.f. 20-2-1998. He replied the suspension order. Four months thereafter the First Party issued third charge sheet dated 18-5-1998. The Second Party workman replied the same vide his reply dated 16-6-1998. They did not consider the replies and initiated the enquiry in respect of the charges in the charge sheet dated 18-1-1996 and dated 20-1-1998. They simultaneously constituted two more Enquiry Committees. Both the enquiries were conducted parallel and simultaneously with a view to harass the workman. They closed the enquiries hurriedly and abruptly.

5. In respect of enquiry of the third charge sheet dated 18-5-1998 notice of hearing was not given to the Second Party workman or his defence representative. It was concluded hastily, ex-parte and without following the procedure. All the three enquiries were conducted without following due process of law. They are illegal and unfair. The First Party did not produce the documents asked for by the Second Party. They examined the witnesses other than the witnesses listed. They did not examine the relevant witnesses. The Enquiry Committee submitted its undated reports holding the Second Party workman guilty of the charges levelled against him. The Second Party workman submitted his final statement in defence. However, they did not consider his explanation and sent a showcause notice dated 10-12-1999 for the punishment. The Second Party workman replied the show cause notice. However, they did not consider the reply and illegally dismissed the Second Party from the services of the first party. The punishment is not as has been prescribed in clause 20 of the Certified Standing Orders.

6. They did not take into consideration the gravity and extent of misconduct while awarding the punishment. Instead of original order they served on him the xerox copy of the order so as to deprive him from availing remedy of appeal. The services of Second Party workman was abruptly terminated with immediate effect. The said order is illegal and void.

7. The approval application was filed before dismissal order. It was also not served upon the Second Party workman. Termination letter dated 7-7-2000 was served on the Second Party workman much latter. The approval application was not filed at the same time. They have not paid the suspension allowance as per the rules. The approval application is illegal.

8. As the services of Second Party workman was illegally terminated he raised industrial dispute vide his letter dated 10-9-2007. The dispute has been closed by Conciliation Officer ex-parte. At the instance of the A. L. C. the Labour of Ministry has sent the reference to this Tribunal. The Second Party workman prays that both the enquiries be declared unfair and illegal and also prays that findings of both the enquiries be declared perverse. He

also prays to quash and set aside the order of dismissal dated 25-2-2000 and the order of termination dated 7-7-2000. He also prays for direction to reinstate him in the service with full back wages and all the consequential benefits w.e.f. 7-7-2000.

9. The First Party company resisted the statement of claim vide its W. S. Ex. 11. According to them the Reference is not maintainable as the Second Party workman had withdrawn the earlier Reference CGRI-11 of 2005. The Second Party workman was neglecting the work and his output was very poor. He was in a habit of missing from the place of his work without prior approval of his superior and without proper justification. Intimation to that effect was given to him by letters dated 21-11-1995 and 27-11-1995. He was also informed that he used to report his duty late and instead of 7.30 A.M. at 8.00 A.M. and on wards. His punching card often used to be found missing from its regular place. Once he was also found with Mr. K. Ravi dealing with business of Passport and on questioning by Dy. Store Manager Mr. C. Kujur he replied arrogantly that in tea time he was free to carry out any kind of private work.

10. The Second Party workman was seen to have entered in the cabin of Dy. Manager, 747 Maintenance Stores and in his absence and made personal telephone calls from his cabin. On 20-2-1998 he reported his duty on 9.15 A.M. instead of 7.30 A.M. His time card was not available at the specified slot. He had kept his time card at an unauthorised place. He was nominated to attend Hindi Class from July, 1997 to November, 1997 on all working days. The Hindi Section reported that he was absent on 17 days intermittently. He also used to be found missing from the place of his work besides late reporting.

11. He used to commit breach of rules. His behaviour during working hours was disorderly. He was habitual negligence or neglecting his work. Therefore he was called upon to submit his explanation. By way of explanation he denied all the charges. Competent Authority found his reply unsatisfactory. Therefore they decided to hold enquiry into the charges levelled against the Second Party workman. The Competent Authority constituted and reconstituted Enquiry Committees. The Enquiry Committees have commenced their proceedings on 22-5-1998. The enquiries were concluded on 21-6-1999 in 33 sittings. Second Party defended by defence Counsel of his choice. Ten management witnesses were examined. The Enquiry Committee found the Second Party workman guilty of all the charges levelled against him except disorderly behaviour in the premises of establishment.

12. The Enquiry Committee submitted its report to the Competent Authority. The Competent Authority forwarded copy of report of Enquiry Committee with show cause notice to the Second Party workman and he was called upon to submit his say as to why the report should

not be accepted and as to why appropriate punishment should not be imposed. The Competent Authority found, his reply was not satisfactory, thus they terminated the services of the Second Party workman. They have also filed an application for approval. They have followed the procedure and legally terminated the services of the Second Party workman. Therefore, they pray that the Reference be rejected.

13. The Second Party workman filed his Rejoinder at Ex. 12. He denied all the allegations in the W. S. He denied all the charges levelled against him. In addition to it he also repeated the contents in the statement of claim.

14. In the light of rival pleadings of the parties, My Ld. Predecessor has framed the Issues at Ex. 13. He decided Issue No. 6 as a Preliminary Issue in the affirmative in respect of maintainability of the reference. My Ld. Predecessor also decided Issue Nos. 1 and 2 by his Part-I Award dated 20-9-2010, wherein he held that the enquiry was not fair and proper and the findings of both the enquiries were found to be perverse.

15. In this Part-II Award, I recorded evidence of both the parties. Following Issue Nos. 3 to 5 are the remaining issues for my determination. I record my findings thereon for the reasons to follow :

Issues	Findings
(3) Whether action of the management is just and proper ?	Yes.
(4) Is second party entitled for reinstatement and back wages ?	No.
(5) What order ?	Reference stands dismissed.

REASONS

16. Issue Nos. 3 and 4 : Both these Issues are interlinked. Therefore, they are discussed and decided simultaneously. In part-I Award the enquiries were held unfair and unjust and finding were found to be perverse. Thus in this part-II Award I have recorded the evidence of both the parties to examine the charges levelled against the second party workman and this tribunal is supposed to find out the truth therein. The said points are before the Tribunal and the evidence is recorded thereon. I have to examine the charges levelled against the workman in the light of the evidence on record. This tribunal is also supposed to record finding as to whether the action of termination of the services of the workman is just, proper and adequate. That is the scope of this Award.

17. In this respect I would like to refer all the three charge sheets categorically and in the light evidence on

record I would like to record the findings on each of the charges levelled against the Second Party workman. The first charge sheet dated 18-1-1996 is on record at Ex. 95. As per this charge sheet, following charges were levelled against the Second Party workman. They are :

- (i) The workman was alleged to be often found missing from the place of his work without prior approval of superior and without proper justification and used to neglect his work and his output was very poor.
- (ii) For the period 27-11-1995 to 15-12-1995 workman was reporting his duty often later than 8.00 a.m. at the place of his work instead of 7.30 a.m. and his punching card was often found to be missing from its regular place and he was also often found missing from the place of his work.
- (iii) On 8-12-1995 at about 9.15 a.m. he was found with Mr. K. Ravi dealing with business of Passport. When Dy. Stores Manager Mr. Kujur asked about the same he replied arrogantly that in tea time he was free to do any private work. It is alleged that all these acts amount to misconducts.

18. The second charge-sheet (Ex-98) dt. 18-5-1998, the charges were :

- (i) On 16-2-1998, in between 11.30 to 11.45 hrs the workman alleged to have unauthorisedly entered in the cabin of Dy. Manager, 747 Maintenance Stores in his absence and unauthorisedly made personal calls from his cabin. It is also alleged that he has taken away official rubber stamp of Dy. Manager which was lying on his table.
- (ii) Late reporting of duty on 20-2-1998. Instead of 7.30 a.m. he reported duty at 9.15 a.m. On verification of time card rack, it is reported that his time card was not available at the specified slot and the same was not traceable. It is alleged that he was keeping the card at unauthorised location unknown to the time-office and the department.
- (iii) The third charge is during the period July 1997 to November 1997, the second party workman was nominated to attend Hindi classes. However, it was reported from Hindi Section that he did not attend the classes on 17 days intermittently and remained absent unauthorisedly from the assigned place of work.
- (iv) It was alleged that during the year 1997-98, the workman reported late to the Section though

the time card indicate that the same was punched at normal reporting time. Besides late reporting, he was also found missing from his place of work. The details thereof are given in the charge sheet at Ex-98. Ex-97 is in respect of the charges levelled against the workman dated 18-1-1996. It is part of the first chargesheet.

19. I would like to verify these charges categorically in the light of evidence on record. First party has examined as many as 8 witnesses to prove the charges. The first witness Mr. Girish Kadam has deposed at Ex. 36. He says on oath that he was working in Jet Stores since 31-8-1990 till the year 2000. He further says that the Second Party workman Mr. Prabhu also working in the same Jet Stores. He further says that he observed that Mr. Prabhu was doing his personal work during working hours. He further says that Mr. Prabhu did not concentrate on the work of the department as a result of which workload on him and on his colleagues was increased. He further says that requisitions handed over to him were never attended by him to time. He further says that workman Mr. Prabhu used to attend only 4 - 5 requisitions in a shift whereas the other co-workers and he himself used to attend about 35 - 40 requisitions on an average. He further says that whenever he used to receive telephone calls he used to leave the section sometimes without informing. Though this witness in his cross-examination admitted that Mr. Prabhu is not responsible for all that, however, these averments in his affidavit that he did not concentrate on the work of the department and was never attending the requisition in time. These averments in his affidavit are not specifically denied in his cross-examination. The averment in his affidavit is also not specifically denied that, the workman Mr. Prabhu used to attend only 4 - 5 requisitions in a shift whereas the other co-workers and this witness himself used to attend about 35 - 40 requisitions. The version of this witness support the charge against the workman that he was negligent towards his duty and his work output was poor.

20. The next witness is Mr. Arvind Shivkar, Ex. 37. In his affidavit he says that, in the year 1996 he was working as a Store Supervisor in Jet Stores and second party workman Mr. Prabhu was working there as a Senior Storekeeper. He says that, he used to receive many complaints from his subordinates against Mr. Prabhu concerning his conduct and work in the section. He further says that Mr. Prabhu used to attend only two or three requisitions per day and most of the times he used to sit near telephone and used to attend several personal calls related to passport work. He further says that he (Mr. Prabhu) used to go missing from his place of work frequently for 1 to 2 hours. He used to refuse to attend the work of cold room items causing inconvenience and hardship to other employees in the Section as they were required to attend the said work. He further says that Mr.

Prabhu never used to attend group requisitions containing 8 to 10 items in one requisition.

21. He further says in his affidavit para 4 thereof that he has personally warned Mr. Prabhu several times with regards to his aforesaid conduct in performing his duties. However he says that inspite of that Mr. Prabhu did not show any improvement. He further says that he reported the aforesaid behaviour of Mr. Prabhu to the then Manager, Mr. Banerjee. The copies of his notes are on record at Ex-61 and 62. Ex-61 is his report about private calls and private talk of Mr. Prabhu on telephone causing disturbance to the Jet stores for day to day work. Whereas Ex-62 is a joint report of 5 Assistant Store Managers including Mr. Shivkar. Vide this report dt. 18-12-1997 they jointly informed that, they found workman Mr. Prabhu reporting his duty late after 8.30 hrs. and not as per schedule time. They also reported that he was found missing from the designated place of work. They have also reported that while on duty he was found receiving phone calls from inside as well as outside inquiring about passport and he used to use the phone for his personal/passport related work causing obstruction. Counselling in this respect was found fruitless. They also reported in this letter/report that the workman was also in a habit of threatening his seniors and requested for suitable action.

22. This witness says that he has also issued memo dated 27-7-1996 to second party workman (hereinafter referred as Mr. Prabhu). This memo was issued to Mr. Prabhu as he refused to work on counter job as per the letter of their Senior, Mr. S. Banerjee dated 20/21-6-1996. He further says that Mr. R. J. Karbhari also had issued a letter to Mr. D. Y. Prabhu dated 7-7-96 as Mr. Prabhu refused to work on counter. He further says that as Mr. Prabhu refused to work on counter, extra manpower had to be arranged to carry out the work at counter. He has also identified the signature on the letter issued by Mr. V. Kundhadia, the then Dy. Manager, Stores to Mr. Prabhu. He further says that as Mr. Prabhu refused to work at the counter, thus they were required to arrange additional manpower and company was required to pay overtime for the same. It was suggested in his cross that as Mr. Prabhu was transferred to Master Index which is a different section, therefore he was not supposed to attend work of any other department. However this witness says that Master Index is a part of Maintenance Stores and it is in the same location. He has denied in his cross that, Master Index and Maintenance Store are different and they have separate staff and not concerned with each others.

23. This witness has no reason either to harass Mr. Prabhu or to allot him more work. This witness has also no reason to say that he received number of complaints from the sub-ordinate staff members about Mr. Prabhu that he used to avoid to attend requisitions and group requisitions. The version of this witness is supported by

the report Ex-61 & joint report Ex-62 and memo Ex-63 which indicates that inspite of direction of superior Mr. Prabhu refused to work on counter. Ex-61 indicates that he was engaged in attending private telephone calls and causing disturbance the others. Ex-62 support the version of the witness that Mr. Prabhu was late in attending his duties and also used to be missing from the place of his work and used to attend phone calls on the counter. There are documents on record to support the version of this witness. Further more there is also no reason to discard the version of this witness. He has no enmity or any other reason to depose against Mr. Prabhu. Therefore, the version of this witness inspires confidence.

24. First party has examined MW-3, Mr. Sidharth Banerjee. He was working as an officiating Assistant Controller, Stores and Purchase Department. He says in his affidavit Ex-38 that the work and conduct of Mr. Prabhu was not satisfactory. He used to neglect his work and his output was very poor. Very often he was reported to be missing from his place of work without prior approval of his superior. He further says that though his reporting time was 7.30 am, he used to report at around 8.00 am. He further says that his superiors and colleagues have made several written complaints about his work and conduct. He used to refuse the work allotted to him by his superiors. He says that, he received complaint about Mr. Prabhu threatening his superiors. He further says that he was involved in passport related activities and was found indulging in such activities during working hours. He further says that due to him, work of the department was suffered. They were put to inconvenience and great hardship by the conduct of Mr. Prabhu. He has issued several letters and memos to Mr. Prabhu about his unsatisfactory work and conduct. The copies of letters and memos are proved by him and they are collectively exhibited as Ex-64. He has proved the letter Ex-65 issued on 4-3-1996 to Mr. Prabhu requesting him to do the counter work as assistance to night shift duty officer. He further says that, Mr. Prabhu did not attend the said work and did not meet the Dy. Stores Manager. Therefore he had drawn his attention to his non co-operative attitude and counselled him about the same. He has proved the report dated 5-10-96 at Ex-66 issued to Mr. Prabhu about refusal to go for short term duty to Madras. According to him, Mr. Prabhu accepted the letter Ex-66 under protest and has also endorsed his refusal thereon. He has also proved the memo/letter Ex-67 jointly issued by himself and by Mr. V. D. Makwana to Mr. Prabhu as he was not available at the place of his work. He has also proved another memo Ex-68 issued to Mr. Prabhu for his frequent late reporting the duty although cards were punched in time. He has proved another memo Ex-69 addressed to Mr. Prabhu for his frequent absence from the place of his work and for not reporting to work without intimation. He has proved two more letters Ex-70 & 71 issued to Mr. Prabhu in respect of

allocation of work with endorsement of Mr. Prabhu for having received these letters under protest. He has proved another letter Ex-72 issued by him to Mr. Prabhu for negligence in co-ordination in getting the spare parts. He has also proved the letter Ex-73 issued by him to Mr. Prabhu for his unauthorised absence and for being found missing from the place of his work. Ex-74 is for availing unapplied leave and found missing from the place of work. He has also issued memo/letter dated 7-11-1997 Ex-75 to Mr. Prabhu for his unauthorised entries in the time card and for availing excess sick leave.

25. The evidence of this witness is not impeached or denied in his cross-examination. Therefore, evidence of this witness and the documents he has proved can safely be relied and accepted. This witness has admitted in his cross-examination at Ex-38 that no personal threats were given to him. However it is also not his case that any threat was given to him personally. Furthermore I would like to point out that this witness is 63 years old, retired officer of Air India. He has no reason to implicate Mr. Prabhu falsely. Neither any such circumstance is brought on record nor any suggestion to that effect is put to this witness to show that he has reason to depose falsely against Mr. Prabhu. In short, the version of this witness and documents proved by him inspires confidence and can safely be relied upon.

26. MW-4, Y. R. Rao is another witness examined by first party at Ex-39. He was the Manager of Stores Department. He says that, Mr. Prabhu was working under him in 747 Maintenance Stores. He says that, the work and conduct of Mr. Prabhu was not satisfactory. He frequently used to report his duties late. He was also found missing from the place of his work. He used to refuse to carry out the work allotted by his superiors. He used to make and attend several personal telephone calls and used to do passport work and connected documentation during office hours. He further says that on 16-2-1998 at about 11 : 30 hrs Dy. Manager, Kujur was not in his cabin when Mr. Prabhu entered in the cabin and was using telephone of Mr. Kujur. When he entered in the cabin, he heard conversation of Mr. Prabhu. He was talking about passport matter. Therefore he made report to his superior about the work and conduct of Mr. Prabhu. The said report is on record at Ex-76. He has also proved joint report Ex-77 signed by himself, Mr. S. D. Wadkar, Mr. P. D. Velankar, Mr. S. F. Pereira and Mr. V. D. Makwana. The four officers have jointly sent this report Ex-77 to the Dy. G. M. Stores wherein they have mentioned that Mr. Prabhu was non co-operative and non-productive work wise. It is further mentioned that he was reporting at 8.30 mostly every day, instigating other staffs against the officers. He used to be frequently missing from the working place. They suspected him doing some documentation work. He often used to threaten superiors as "Dekh Loonga". They have requested to take stern disciplinary action against him. Out of four officers,

Mr. Pereira, Assistant Manager, Stores has signed this report on the point of frequently missing from the working place. He has not signed for the other misbehaviours of Mr. Prabhu. In fact it inspires confidence about the report. It indicates that they have not signed this report blindly. Mr. Pereira was not aware about the other complaints therefore he had signed only about the missing of work place.

27. This witness Mr. Rao has also sent another joint report to G.M. (Administration) Stores and Purchase Department against Mr. Prabhu. It is at Ex-78. In this report, they have informed that, on that day Mr. Prabhu reported his duty at 09.40 hrs whereas his normal duty hours were 07.30 hrs to 16.55 hrs. They also reported that he was also found missing in between 10.30 hrs to 11.00 hrs and 11 : 05 hrs to 16 : 50 hrs and 16.25 hrs to 16.55 hrs on 7-1-1998 without prior permission from Assistant Duty Manager or Incharge of Section. This report was jointly signed by this witness and Mr. V. D. Makwana. This witness further says that one more joint report was sent by he himself and by Mr. Makwana to Sr. Manager, Stores in respect of refusal of work allotted to Mr. Prabhu. He refused to do the physical check of items by saying that it was not his job. The said report is on record at Ex-79. This witness has also proved relevant page of diversion register wherein he has made remark that on that day, Mr. Prabhu resumed at 8 : 45 hrs. He further says that, Mr. Prabhu made another remark and questioned him 'what is the purpose of making such remark ?' It amounts to insubordination. Though this witness was cross-examined at length, much description of stores their functioning was asked to him, however these material allegations and the documents produced are not specifically denied in the cross-examination of this witness. It was suggested in his cross that he was never superior officer of Mr. Prabhu which he has denied. This witness is also a retired officer of Air India. He has retired some three years back and has no reason either to victimise Mr. Prabhu or to depose falsely against him. His version supports the charges of late attendance, missing from the workplace and charge of insubordination as he had refused to do the work given by the higher authority. His version also supports the charge of neglecting the duty during the duty hours.

28. MW-5, witness V. D. Makwana had deposed at Ex-40. He was Manager of MM Stores Department, known as Material Management Department. He says in his evidence Ex-40 that Mr. Prabhu was working under him. His work was not satisfactory. He used to report frequently late at the place of work. He was found missing from the place of his work. He used to refuse to carry out the work allotted by his superior. He used to attend several personal telephone calls and used to do passport related work during office hours. He further says that he had personally seen staff coming at the counter where Mr. Prabhu was sitting and handing over money/documents/passports. He further

says that he used to threaten his superiors including himself as "Main Tumhe Dekh Loonga" and used to threaten to kidnap his son and also used to threaten to throw him out of the train.

29. He further says that he reported to his superior about the unsatisfactory work of Mr. Prabhu. He has supported the evidence of other witnesses who have proved joint reports Ex-62, 67, 77 to 79 & 82. They are about late reporting the duty, missing from the place of work, refusing the work allotted by his superiors and for threatening his superior officers including this witness himself. These reports are discussed above in the evidence of witnesses Shivkar and Rao.

30. Ex-83 is the report sent by this witness to Sr. Manager against Mr. Prabhu as he refused to do Inter Store Requisition by saying that it was not his job. This witness has proved the attendance sheet at Ex-81. His presence is marked against his name. Below it this witness has written the time of reporting as 08 : 30, 09.15, 08.30, 08.05, 09.00, 09.15, 09.15. Though this witness was elaborately cross-examined and number of details and descriptions were put on record, there is no specific denial of the allegations of late attendance, missing from place of work, refusing to work as per the directions of the superior and threatening the superiors. Therefore, the allegations which are not specifically denied in cross can be said to have been proved. Furthermore, the 1d representative of first party rightly pointed out that this witness is also 65 years retired officer of Air India. Neither he has any reason to depose falsely against Mr. Prabhu nor there is any such suggestion to this witness. Therefore version of this witness inspires confidence.

31. MW-6, Mr. Charles Kujur, the then Dy. Manager, Stores and Purchase Department has deposed at Ex-43. He says that on 8-12-95 at about 9.15 hrs he found Mr. Prabhu sitting with Mr. Ravi, Technical Engineer with photocopy of passport and other documents pertaining to passport on his table. He immediately instructed Mr. Ravi and to Mr. Prabhu not to do passport related work in the office. Ravi apologised and informed that he had come to meet Mr. Prabhu for availing passport services. He further says that Mr. Prabhu replied in a very rude tone and manner. He further says that he warned him orally not to deal in passport business even in teatime or lunch break. He has made written report to the management about this incident. The said report is at Ex.-84.

32. He further says that, Mr. Prabhu used to report late, found missing from the work place and attend several personal telephone calls. He has proved the notes collectively exhibited at Ex-85 wherein he has mentioned dates, time of late reporting and missing of Mr. Prabhu from the place of work. He has also made a report about the arrogant talk and threat by Mr. Prabhu on phone. The said

report is at Ex-86. These allegations and reports and notes are also not denied specifically in the cross-examination of this witness. The version of this witness corroborates the charges of late attendance, missing from the workplace and threatening the superiors. There is no reason to discard the version of this witness.

33. MW-7, Mr. Gajanan P. Bhosale (Ex-48) and Mr. MW-8, S. D. Wadkar (Ex-49) have also corroborated the allegations and charges that the work of Mr. Prabhu was not satisfactory. He was reporting late to his duty. He used to be missing from the place of his work. MW-7 G. P. Bhosale has proved his notes Ex-88, 89 and the memo Ex-90 and 91 issued to Mr. Prabhu. He has also proved the joint report Ex-87 signed by he himself and Mr. C. E. Nagvekar. Both were superior officers of Mr. Prabhu. Their allegations about late reporting, missing from workplace and refusal to work are not specifically denied in their respective cross-examinations at Ex-48 and 49. There is also no reason to discard the version of these witnesses.

34. In respect of refusal to work as per the direction of higher officer, the workman has admitted in his cross at Ex-57 para 40 thereof that his superiors has issued memo to him for refusal of work and he replied that immediately. He admitted that there were occasions when he used to demand memo in writing to do some work directed by the superior. He volunteers in the same para that, such occasions were when they used to give additional work other than his regular work. He admitted the memos issued to him and his endorsements thereon at Ex-91, 91/1, 91/2. His admissions in his cross support the version of first party and its witnesses that the second party workman was in a habit of refusing the work directed by his superiors. Thus I hold this charge is supported by the evidence of these witnesses and the documents produced by them that the second party workman used to refuse to do the work directed by his superiors.

35. In respect of missing from the place of his work, this witness has admitted in his cross at Ex-57 para 42 that he used to leave the department frequently under pretext of visiting medical department or Personnel Department. His explanation is that he used to obtain permission of his superior. All the above witnesses say on oath that Mr. Prabhu used to be missing from the place of his work. Some of them have also made detail reports thereof. He may have obtained permission once or twice from some officer. However majority of officers have deposed that he used to be missing from the place of his work for hours together. Their version is supported from the memos issued and from the reply given by the workman in his cross-examination. Furthermore, there is no specific denial of the allegations in the respective cross-examinations of these witnesses. Thus I hold this charge of often missing from the place of work is proved.

36. In this respect it was submitted on behalf of the second party workman that to prove late reporting to the duty, the first party management have not produced punching cards which are the relevant documents where time of attending the duty is reflected. In this respect the 1d representative of first party rightly submitted that it has come in the evidence of the witnesses and in the reports referred above that punching card of Mr. Prabhu used to be missing from the slot of punching cards. He further pointed out that their charge is Mr. Prabhu was reporting late at the place of his duty. He may be getting his card punched in time. However he was reporting late to Maintenance Stores, 747 Stores or Jet Stores where he was working at the relevant time. In respect of missing from the workplace or late reporting, it is submitted on behalf of the second party workman that as per Certified Standing Orders, the management could have deducted his pay. However his pay was never deducted, therefore it is submitted that, it shows neither he was late nor missing from the place of his work. In this respect it was rightly pointed out that non deduction of pay does not amount to breach of Certified Standing Orders.

37. The 1d representative of first party further submitted that, the officer used to report about late reporting and missing from place of work and were expecting improvement in the behaviour of the workman. Therefore they have not deducted pay of the workman. There is no reason to discard the version of the witnesses as some of them are retired from the service and have no reason to depose falsely. Thus I hold that this charge of late reporting the duty is also proved by the first party.

38. In respect of allegation of doing passport related work during the office hours, I would like to point out that the allegations to that effect are vague and based on mere suspicion and inference. The witnesses suspected that, Mr. Prabhu was dealing with passport related work as he was found discussing with Mr. Ravi regarding passport work. It is also alleged that he used to do personal calls and used to attend telephone calls and he used to be missing from the place of work therefore, these officers have drawn inference that he was doing passport related work during the office time. The version of the witness is based on suspicion and inference. Though there is no concrete evidence about doing of passport related business by the workman. However from the evidence on record and the version of these witnesses, it is clear that Mr. Prabhu was neglecting his work and his output was very poor.

39. The version of the second party workman does not stand to reasons that, the officers have victimised him as he was active member of union and he had objected to the illegal activities of the officers. No such circumstance is brought on record. It was suggested to these witnesses that Mr. Hegde is dealing with passport and visa business and was running a Travelling Company. However there is

no evidence about the same. Furthermore, all these officers have no reason to depose against Mr. Prabhu merely to support Mr. Hegde.

40. In respect of the charges it is submitted on behalf of second party workman that, the charges are vague therefore he cannot be punished for the same. In support of his argument the second party workman resorted to the Bombay High Court ruling in Griffon Laboratories V/s. Maharashtra Shramik Sena & Ors 2001 III CLR 655 wherein Hon'ble High Court set aside the punishment on the ground that charge levelled against the workman was vague. In that case allegation against the then workman was of assault. However, details, nature and particulars of assault were not given. In the circumstances, the Hon'ble Court while setting aside the inquiry and punishment observed that "..... the disciplinary inquiry was vitiated because of vagueness of charge-sheet." However in that case, name of the employee who was assaulted, details of nature of assault and particulars of time and place of incident were not given in the charge-sheet, therefore it was held that the charge-sheet was vague. In the case at hand, the charge-sheet is not vague. On the other hand, the details of charges levelled against the workmen were given, therefore, the ratio laid down in this ruling is not attracting to the set of facts of the present case.

41. On the point workman also referred another ruling of Hon'ble Bombay High Court in Sundarlal Dhanraj Kasliwal V/s. Karmaveer Kakasaheb Wagh Sakhar Kharkhana 1994 II CLR 1090 in that case also charge-sheet was vague. Thus the inquiry and punishment therein were quashed. However in the case at hand the charges are not vague. Thus ratio laid down in that ruling is not attracted to the set of facts of the present case. The workman also referred another ruling of Hon'ble Bombay High Court S. N. Thampy V/s. Textiles Committee 2001 III CLR 667 wherein principles of natural justice were violated. The misconduct was not proved and punishment of dismissal was found disproportionate to the misconduct therefore Hon'ble High Court set aside the order of dismissal and petitioner therein was treated as under continuous suspension. In the case at hand, the facts are altogether different. The workman was given sufficient opportunity to defend himself and there was no violation of principles of natural justice. The first party has also led sufficient oral and documentary evidence about number of misconducts of the second party workman. Therefore ratio laid down in the above ruling is also not attracted to the set of facts of the case at hand.

42. It was submitted on behalf of second party workman that the order of dismissal is not as per the Certified Standing Orders. It is pointed out that as per the Certified Standing Order 20 (j) the dismissal should be dismissal with or without retirement benefits in part or in full. In the case at hand, the punishment is of mere dismissal

from the service. There is no reference whether it is with or without retirement benefits in part or in full. Therefore it is submitted that the order of dismissal passed by competent authority is illegal and deserves to be set aside. In support of his argument, workman resorted to Apex Court ruling in *Glaxo Laboratories (I) Ltd. V/s. Labour Court Meerut & Ors. 1984 I LLJ 16* wherein Hon'ble Apex Court observed that :

“The contention that some other act of misconduct which would per se be an act of misconduct though not enumerate in the standing order can be still punished must be rejected.”

However in the case at hand, the second party workman was not punished for any other misconduct not enumerated in the certified standing order as in the above referred case. Late attendance, negligence in performing duty by missing from the place of work or not attending Hindi classes as well as refusing to work as directed by the superior, all are punishable under Certified Standing Orders. The ratio laid down in the above ruling is not applicable to this case.

43. He also relied upon another Apex Court ruling in *Sudhir Chandra Sarkar V/s. Tata Iron and Steel Co. Ltd. & Ors. 1984 III SCC 369* wherein the Hon'ble Court observed that :

“As such certified standing order which statutorily prescribed conditions of service shall be deemed to be incorporated in the contract of employment of each employee with his employer.”

The ratio laid down in this ruling is also not attracted to the set of facts of the case at hand as certified standing orders are very well applicable to the workman as he is held guilty for the misconduct prescribed in certified standing orders.

44. In this respect, on behalf of second party workman, Bombay High Court ruling is resorted to in *Sadhana Textiles Industries Pvt. Ltd. V/s. Gulabchand Gayadil & Ors 1993 II CLR 512* wherein in respect of the proper punishment as per the standing order, the Hon'ble Court observed that :

“..... the punishment specified in the standing order would be proper punishment and the industrial court did not apply its mind to the relevant standing order and did not decide the quantum of punishment in the light thereof and as such the proceeding has to be remanded.”

In the case at hand, punishment of dismissal is prescribed in the certified standing order. However by mistake or by oversight the competent authority did not mention whether the dismissal was with or without retirement benefits in part or in full. Therefore it cannot be said that the order of punishment is in violation of certified standing order. Furthermore in case of any mistake in awarding the

punishment by the competent authority this Tribunal can very well correct the same. For such minor mistake the punishment need not be set aside. In part-I of the award, it was held that the inquiry was not fair and proper. The findings thereof were also declared to be perverse. Therefore, the parties were allowed to lead their evidence afresh. In the aforesaid ruling it was a mistake of industrial tribunal therefore, the Hon'ble Court was pleased to remand the matter. Here the Tribunal has not committed any mistake on the other hand Tribunal herein can correct the mistake if any committed by the competent authority. In the circumstances, the ratio laid down in the above ruling is not attracted to the set of facts of the present case. While correcting the mistake, in awarding the punishment, I would like to invoke the term in the Certified Standing Order No. 20 (j) and part thereof, favourable to the workman. Such as the Competent Authority has passed the order that workman is dismissed from service. Had the competent authority passed the order in consonance with Certified Standing Order 20 (j), looking into the gravity of charges, they would not have given any retirement benefit to the workman. In this backdrop, I think it proper to read the punishment as per the Certified Standing Order with retirement benefits in full. The order of punishment thus has to be read as follows :

“The workman is dismissed from the service of the first party with retirement benefits in full.”

It will suffice the purpose. The punishment of dismissal is very well prescribed in Certified Standing Order 20 (j). Therefore, it cannot be said that the punishment is something else than prescribed in Certified Standing Order. The order of punishment is silent about the retirement benefits. Therefore, the order of dismissal can be read and interpreted in consonance with Certified Standing Orders and beneficial to the workman i.e. “with retirement benefits in full”. This the order of punishment cannot be called contrary to the certified standing orders as has been argued by the second party workman.

45. Another objection raised by the workman is the order was not communicated to him by the competent authority. Therefore it was argued that there was no proper service of order of dismissal. In this respect Id representative of the first party submitted that the termination or dismissal cannot be called bad as it was not served on him by the competent authority and served by some officer of other department. In support of his argument, Id representative of the first party resorted to Apex Court ruling *Union of India & Ors. V/s. Sumitra Devi and Ors* wherein the Hon'ble Court observed that :

“Since the competent authority has passed the order of termination, its communication by any other authority will not make the order of termination bad.”

In short, the argument on behalf of second party in this respect is found to be devoid of merit.

46. In the light of above discussions, I hold that following charges are proved against the second party workman Mr. Prabhu. They are (i) Late reporting to his workplace, (ii) Missing from the place of work, (iii) He was relieved from his duty to attend Hindi class from July 1997 to November 1997, however on 17 occasions he did not attend Hindi classes. The second party workman is found guilty for all these charges. In addition to that there is also evidence on record which indicates that the workman used to refuse the work allotted to him by his superiors. There is also evidence on record as reflected from the version of the witnesses that workman used to threaten his superiors and had also refused to accept the transfer. In short he was rightly held guilty for the charges levelled against him.

47. Now I would like to examine whether the punishment is proportionate. In this respect, the Id representative of the first party management submitted that, late attendance or missing from the place of work often, are sufficient to award punishment of dismissal. In support of his argument the Id representative resorted to Division Bench ruling of Hon'ble Bombay High Court in Chandrakant Tatoba Kumbhar V/s. The Chairman, Agriculture Produce Market Committee & Ors wherein on the point of habit of attending the office as per the convenience of workman, the Hon'ble Court observed that :

“..... the time has come that when it is necessary to observe some discipline and some norms of the behaviour in the Government and semi Government offices. In our judgement the punishment of removal on the facts and circumstances of the case cannot be faulted with.”

48. The Id advocate also resorted to Apex Court ruling in M/s. Pearlite Liners Pvt. Ltd. V/s. Manorama Sirsi wherein Hon'ble Court in respect of non-compliance of the transfer order observed that;

“In case of such in-subordination, termination of service would be a possibility. Such a decision purely rest within the discretion of the management.”

In the case at hand there are 3 charges proved against the workman. In addition to that, these is also evidence on record that he used to refuse to work directed by his superiors. There is also evidence that he had also refused to accept transfer. Often reporting workplace late, missing from the place of work and not attending Hindi class on 17 occasions for which he was relieved from duty. Each of these charges is sufficient to dismiss the workman from the services.

49. In this respect the Id representative of the first party rightly submitted that, the workman under reference was serving in Air India. He was Sr. Storekeeper in the Spare Parts & other Stores of the company, where such a

negligent behaviour may cause serious problems to the company as it is related to national and international aviation. Everyday company has to arrange several national and international flights. They have to maintain their schedule timings of all the flights. They are required to take timely and utmost care of their aircrafts and maintenance thereof. Therefore, they cannot afford any such negligence or delay in any of their departments. In the circumstances, Id representative of first party submitted that, such a workman can cause grave damage to the company and also to the public at large. Therefore, he rightly submitted that punishment of dismissal is adequate and proper. In this backdrop, I hold that punishment of termination is just, proper and adequate. Thus it needs no interference except the above mentioned change in the final order in consonance with the certified standing orders. Accordingly, I decide Issue No. 3 in the affirmative and issue No. 4 in the negative. Thus I pass the following order :

ORDER

The order of punishment is modified as follows :

The second party workman is dismissed from service w.e.f. 25-2-2000 with retirement benefits in full. With this modification in the order, the reference stands rejected with no order as to cost.

Date : 31-3-2011

K. B. KATAKE, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का. आ. 2931.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.डी.बी.आई. बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, मुम्बई के पंचाट (संदर्भ संख्या 4/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2012 को प्राप्त हुआ था।

[सं. एल-12011/22/2010-आई आर(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 24th August, 2012

S.O. 2931.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 4/2011) of the Central Government Industrial Tribunal-cum-Labour Court-I, Mumbai as shown in the Annexure, in the industrial dispute between the management of IDBI Bank Limited and their workman, which was received by the Central Government on 24-8-2012.

[No. L-12011/22/2010-IR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1,
MUMBAI

PRESENT:

Justice G. S. Sarraf, Presiding Officer

Reference No. CGIT-1/4 of 2011

PARTIES:

Employers in relation to the management of
IDBI Bank Ltd.

AND

Their Workman (Pereira Piedade)

APPEARANCES:

For the Management : Shri Joglekar, Adv.

For the Karmachari Sangh : Shri S. T. Sahasra-
budhe, Adv.

STATE:

Maharashtra

Mumbai, the 1st day of August, 2012

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). The terms of reference given in the schedule are as follows:

“Whether the action of management of IDBI Bank Limited in reverting Shri Pereira Piedade, a full time Peon working at Madgaon Branch to part time Sweeper vide order dated 15-10-2009 arbitrarily is legal and justified? To what relief the workman is entitled?”

2. According to the statement of claim filed by General Secretary, IDBI, Karmachari Sangh, the second party workman Pereira Piedade was appointed as part time sub-staff by the United Western Bank Ltd. (hereinafter referred to as the U.W.B.) at its Madgaon Branch w.e.f. 6-7-2000. Later on due to requirement of staff he was elevated and taken on full time sub-staff vide office order dt. 12-5-2001 of Chief Manager (Personnel and Administration) of the U.W.B. The second party workman was thus working as full time sub-staff w.e.f. 15-5-2001 at the Madgaon Branch of the U.W.B. As per the notification dt. 30-9-2006 issued by the Ministry of Finance, New Delhi the U.W.B. Came to be amalgamated with the Industrial Development Bank of India (hereinafter referred to as the Bank). It was specifically provided in Chapter V(3) of the

notification that the same remuneration and the same terms and conditions of service would be applicable to the amalgamated employees. However, the Bank issued an order dt. 15-10-2009 whereby the second party workman came to be reverted to 1/3rd scale wages w.e.f. 16-10-2009 as payable to Class IV employees. Accordingly with effect from 16-10-2009 the second party workman is paid 1/3rd wages. According to the statement of claim before issuing the order dt. 15-10-2009 no notice was given under Section 9-A of the Act and hence the order dt. 15-10-2009 is patently illegal. The second party workman has, therefore, prayed that the order dt. 15-10-2009 issued by the Bank be set aside and the Bank be directed to pay full time wages to the second party workman from 16-10-2009.

3. According to the written statement filed by the Bank due to office exigencies the U.W.B. vide office order dt. 12-5-2001 utilised the services of the second party workman, a 1/3rd scale wage sweeper posted at Madgaon, as peon as he was temporarily performing additional work of a peon. He was compensated by grant of wages akin to that of a peon. The aforementioned office order does not mention the word promotion which indicates that no promotion has ever taken place in respect of the second party workman. The so called promotion of the second party workman was purely temporary in nature effected due to office exigencies during the period from October 2001 to October 2009. The annual increment drawn by the second party workman was equal to the increment drawn by 1/3rd scale wage sweeper. The Bank, therefore, took a decision to place the second party workman at his original post and there was no need to give any notice under Section 9-A of the Act. Thereafter the Bank by order dated 8-6-2011 has upgraded its 90 part time 1/3rd scale wage sweepers including the second party workman into one half scale and has increased the duty hours to 18 hours per week w.e.f. 3-6-2011. As such the second party workman is not entitled to any relief.

4. The Karmachari Sangh has filed rejoinder wherein it has reiterated its stand and has stated that the action of the Bank giving half pay of scale in place of 1/3rd pay of scale appears to have been taken to cover the earlier arbitrary action of the Bank.

5. The Karmachari Sangh has filed affidavit of its General Secretary Shripad Gangadhar Bobde who has been cross-examined by learned counsel for the Bank and the Bank has filed affidavit of Satyavijay Bhal Chandra Rane, Dy. General Manager who has been cross-examined by learned counsel for the Karmachari Sangh.

6. Heard rival submissions.

7. It is clear from the averments made in the statement of claim as also in the written statement that the second party workman was appointed by the U.W.B. as part time sub-staff at its Madgaon Branch w.e.f. 6-7-2000 and

thereafter he was made full time sub-staff vide order dt. 12-5-2001 with full time wages. The amalgamation of the U.W.B. with the Bank became effective from 3-10-2006 as per the notification dt. 30-9-2006. The second party workman worked as full time sub-staff from 15-5-2001 upto 15-10-2009 and thereafter by order dt. 15-10-2009 of the Bank he was reverted to the 1/3rd scale wages w.e.f. 16-10-2009.

It is an admitted position that no notice was given to the second party workman under Section 9-A of the Act before his reversion.

8. The order of the Bank dt. 15-10-2009 to revert the workman to 1/3rd scale wages w.e.f. 16-10-2009 is not only arbitrary but it is also in clear violation of the provisions of Section 9-A of the Act. Section 9-A of the Act prohibits the employer to effect a change in the conditions of service applicable to any workman, and to reduce the wages of the workman to 1/3rd is certainly a change in the conditions of service of the workman as per the Fourth schedule. The change in the conditions of service of the workman who is affected by such change cannot be brought about without following the procedure as contained in Section 9-A of the Act. In this case no notice was given to the workman and thus no procedure was followed as laid down in Section 9-A of the Act.

9. Thus the order dt. 15-10-2009 reverting the workman to 1/3rd scale wages w.e.f. 16-10-2009 is arbitrary, illegal and unjustified. The workman is entitled to full time wages w.e.f. 16-10-2009 as per the order dt. 12-5-2001 of the UWB.

Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2932.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई नं.-1, के पंचाट (संदर्भ संख्या 57/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2012 को प्राप्त हुआ था।

[सं. एल-41012/24/2007-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 24th August, 2012

S.O. 2932.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2007) of the Central Government Industrial Tribunal-cum-Labour

Court No. 1, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of North Central Railway, and their workmen, which was received by the Central Government on 24-8-2012.

[No. L-41012/24/2007-IR (B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, MUMBAI

PRESENT:

Justice G. S. Sarraf, Presiding Officer

Reference No. CGIT-1/57 of 2007

PARTIES:

Employer in relation to the management of Central Railway Catering Services.

AND

Their workman (S. V. Dagle)

APPEARANCES:

For the Management : Smt. Pooja Kulkarni, Advocate

State : Maharashtra

Mumbai, the 30th day of July, 2012

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference given in the schedule are as follows :

“Whether the action of the management of M/s. Y. S. Divokar and sons, contractor for Central Railways, is justified and legal in terminating Shri Suresh Vinayak Dagle, Cook an employee of Karjat Railway Station w.e.f. 7-11-2006 ? If not, to what relief the workman concerned is entitled ?”

2. According to the statement of claim filed by the workman Suresh Vinayak Dagle, he joined the services of the Central Railway Catering Service as cook through the contractor Y. S. Divokar and Sons on 1-11-1976 at Karjat Railway Station. He continuously worked on the said post without any break in service though no appointment letter was issued. The contractor terminated his services w.e.f. 7-11-2006 without notice and without assigning any reason. No enquiry was held before terminating his services. His termination is, therefore, illegal and unjustified. According

to the statement of claim the workman had put in more than 240 days attendance in each year of his service but while terminating his services he was not given one month's notice or one month wage in lieu of such notice. He was not paid retrenchment compensation. At the time of his termination he was drawing monthly salary of Rs. 5,220 i.e. Rs. 174 per day. The action of Y. S. Divokar and Sons, contractor of the Central Railway Catering Service is illegal and against the principles of natural justice. He should be reinstated in service with full back wages and continuity of service.

3. According to the written statement filed on behalf of Central Railway Suresh Dagle was neither appointed by Central Railway nor by any of its contractors. Y. S. Divokar was never a contractor and he was merely a licensee of Central Railway who was granted license to occupy a small portion at Stations to run Tea Stall in consideration of license fee. Central Railway is not aware as to whether the workman was employed by Divokar and Sons for any purpose and whether Divokar and Sons terminated the services of the workman. The Central Railway has prayed that reference be rejected.

4. The workman and the Central Railway have not adduced any evidence.

5. Heard Mrs. Pooja Kulkarni learned counsel for the Central Railway.

6. It is not the case of the workman that he was appointed by or was an employee of the Central Railway.

7. The case of the workman is that he was an employee of Y. S. Divokar and Sons and that his services were terminated w.e.f. 7-11-2006 and Y. S. Divokar and Sons is a contractor of Central Railway. The workman has not led any evidence to prove and establish the above facts. Thus there is absolutely nothing on record to prove that Y. S. Divokar and Sons was contractor of the Central Railway and the workman was an employee of Y. S. Divokar and Sons and that his services were terminated from 7-11-2006.

8. The workman is, therefore, not entitled to any relief.

Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2933.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 23/2012)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/79/2011-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2933.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2012) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 16-8-2012.

[No. L-12012/79/2011-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Monday, the 13th August, 2012

PRESENT:

A. N. Janardanan, Presiding Officer

Industrial Dispute No. 23/2012

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Bank of Baroda and their workman)

BETWEEN

Sri J. Tamilselvam : 1st Party/Petitioner

AND

The General Manager : 2nd Party/Respondent
Bank of Baroda,
Regional Office
82, Bank Road,
Coimbatore-641018

APPEARANCE:

For the 1st Party/Petitioner : Defaulted to Appear

For the 2nd Party/Management : M/s. T. S. Gopalan and
Co. Advocates

AWARD

The Central Government, Ministry of Labour and Employment vide its Order No. L-12012/79/2011-IR (B-II) dated 26-3-2012 dated referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Bank of Baroda in terminating the services of Sri J. Tamilselvam w.e.f. 1-9-2004 is legal and justified ?
What relief the workman concerned is entitled to ?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 23/2012 and issued notices to both sides. Both sides entered appearance through their counsel and petitioner filed Claim Statement. No Counter Statement was filed by the Respondent. Thereafter when the matter stood posted from time to time for further steps and lately on today (13-8-2012) for enquiry, petitioner continued with his persistent absence. Nor was he represented too which was the consistent conduct.

3. Points for consideration are :

- (i) “Whether the termination from service of Sri J. Tamilselvam w.e.f. 1-9-2004 is legal and justified ?”
- (ii) To what relief the concerned workman is entitled ?

Points (i) and (ii) :

4. The petitioner remained absent. He has not chosen to give any evidence or appear before this Court on due days to prove his claim. Needless to say it is upon the petitioner to substantiate his case that the punishment of termination inflicted on him by the Management is not legal and justified if it is actually so. When he wishes the Court to be satisfied and made believe that it is so for him to discharge that burden which has not been done. The inevitable conclusion is that the punishment of termination imposed on him is only legal and justified and he is not entitled to any order in his favour. Hence an award is passed for default of the petitioner.

5. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th August, 2012)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner : None
For the 2nd Party/1st Management : None

Documents Marked :

On the Petitioner's side

Ex. No.	Date	Description
	N/A	

On the Management's side

Ex. No.	Date	Description
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N/A

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2934.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 274/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-2011 को प्राप्त हुआ था।

[सं. एल-12012/272/1996-आई आर (बी-II)]

श्रीश राम, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2934.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 274/2011) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 2-8-2012.

[No. L-12012/272/1996-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX,
DELHI**

I. D. No. 274/2011

Shri I. M. Bakshi,
S/o. Late D. R. Bakshi,
R/o. H. No. 8/324, Sector-3,
Rajender Nagar,
Sahibabad District,
Ghaziabad U.P.

..... Workman

Versus

The General Manager,
Syndicate Bank, Zonal Office,
43/28, Naval Kishore Road,
'Sky Lark', III Floor,
Lucknow.

.....Management

AWARD

After discharge from military services, Shri I. M. Bakshi joined as clerk with Syndicate Bank (in short the

bank) on 27-7-1972. He remained posted at various branches of the bank and was lastly working as Special Assistant at Air Force Station Extension Counter, Ghaziabad. He got opened three Savings Bank account Nos. 9986, 9762 and 8185 in the names of his relatives and a Savings Bank account No. 7052 in his own name. He inserted fictitious credit entries in Savings Bank account Nos. 9388 and 9986 without being supported by credit slips and allowed debits/withdrawals from the aforesaid accounts. He debited/withdrew money from account Nos. 9986, 9762 and 8185 without sufficient balance in those accounts, by leaving line blank in ledger folio and credited the amount at a later date in the line, so left blank. He also passed cheques Nos. 614146 and 613198 drawn by Ms. Rama Bakshi for Rs. 15000.00 and Rs. 20000.00 respectively, without debiting the same in Savings Bank account No. 9320, standing in the name of Shri S. Kumar and credited the aforesaid amounts to his Savings Bank account. He also made debit entries by way of debit slips without authorization from the account holders and corresponding credit entries were passed on to the accounts of his relatives. When above fraudulent acts came to light, he was suspended. Charge sheet was served upon him. Domestic enquiry was constituted. The Disciplinary Authority awarded punishment of dismissal from service to Shri Bakshi, vide order dated 13-7-1994. His appeal came to be dismissed. Ultimately, he raised an industrial dispute before the Conciliation Officer. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-12012/272/96/IR(B-II), New Delhi dated 29-7-1997, with the following terms :

“Whether the action of the management of Syndicate Bank in dismissing the services of Shri I. M. Bakshi with effect from 13-7-1994 is legal and justified ? If not to what relief the said workman is entitled to ?”

2. Claim statement was filed by Shri Bakshi pleading therein that he rendered meritorious service with the Indian Army. He was awarded ‘Raksha Medal 1965’, ‘Sainya Sewa Medal’ with Clasp ‘Himalaya’ for his meritorious services. He was discharged from military services on 16-1-1970. Thereafter, he joined services with the bank as a clerk on 22-7-1972 against the quota reserved for ex-servicemen. He remained posted at Dhanora, Aligarh, Lucknow and Ghaziabad branches of the bank. Since 10-4-1980, he was working as Special Assistant.

3. Vide order dated 16-1-1993, served upon him on 21-1-1993, he was suspended by the bank. It was alleged against him that while working as Special Assistant at Air Force Station Extension Counter, Ghaziabad, he opened Savings Bank accounts in the names of his relations. It was alleged that he manipulated certain transactions in those SB accounts by allowing debits/withdrawals without sufficient balance, by way of leaving blank row in between

such debit entries and by inserting credit entries in the spaces so left blank without mentioning date. Bank had also alleged that he inserted forged credit entries in some of the accounts without being supported by any credit vouchers and allowed debits/withdrawals against the same. It was also alleged against him that he passed some cheques without debiting those in respective accounts as accounts did not have sufficient balance and thus extended undue pecuniary advantage to himself or third parties known to him and exposed the bank to financial loss. According to Shri Bakshi, those allegations were arbitrary, untenable and baseless.

4. Charge sheet dated 30-8-1993 was served upon him. He submitted his reply to the said charge sheet detailing therein that he had not committed any misconduct. He projected in his reply that certain procedural lapses might have occurred due to shortage of staff and his disturbed frame of mind, with which he was suffering at the relevant time. He pointed out that the accounts got opened by him, were genuine and entire amount referred in the charge-sheets has been recovered. There was no case to allege that the bank has suffered any monetary loss.

5. It was projected by Shri Bakshi that when he joined Ghaziabad (Main) branch on 10-4-1985, the Extension Counter had only 7000 accounts and there were total deposits of Rs. 60,000.00 in those accounts. Due to prompt service given to customers, his excellent customer relations, hard work and dedication could take total deposits to over Rs. 2.5 crore and number of accounts also increased to 11000. Projecting these facts, he claimed that proceedings may be dropped. However, the bank appointed Shri L. J. Prasad as Enquiry Officer. Even before the Enquiry Officer, he admitted procedural lapses on his part but denied having committed any fraud or major misconduct. In the enquiry, no evidence was produced to the effect that the accounts got opened by him were fictitious or fraudulent. No evidence was also brought to project that the Bank had suffered any loss. It was claimed by Shri Bakshi that on the other hand, there was evidence that the short fall, if any, had been made good by him.

6. The claimant agitated that the bank issued notice dated 24-6-1994 with a pre-conceived notion. It was decided by the bank to dismiss him from its services. When bank had already made up its mind to dismiss him from service, the aforesaid show cause notice lost its relevance. Discarding his submissions made during personal hearing on 22-7-1994, penalty of dismissal was imposed on him. He was dismissed from service vide order dated 13-7-1994. His appeal was also dismissed on 11-11-1994. According to him, penalty imposed by the bank was arbitrary, discriminatory and shockingly disproportionate to the acts of his misconduct. Punishment awarded to him is manifestly unfair, unjust and illegal. He claims reinstatement in service with continuity and full back wages.

7. Bank resisted his claim pleading that from 15-4-1985 to 6-11-1992, Shri Bakshi was posted as Special Assistant at Extension Counter, Air Force Station, Hindon, Ghaziabad. There he got opened three Savings Bank Account Nos. 9986, 9762 and 8185 in the names of his relatives and in all those accounts, address of 9/115, Sector 3, Rajender Nagar, Ghaziabad was mentioned, which address was also mentioned in Savings Bank Account No. 7052, opened by the claimant in his own name. In above SB accounts, he debited/withdrew money without sufficient balance in those accounts by leaving a line blank in ledger folio and credited the amounts at a later date in the line left blank earlier. He inserted fictitious entries in SB account Nos. 9388 and 9986 without being supported by credit slips and allowed debits/withdrawals of the same. He made debit entries in certain accounts by way of debit slips without authorization from the account holders and corresponding credit entries were passed on to the accounts of his relations. He passed cheque Nos. 614146 and 613198 drawn by Ms. Rama Bakshi for a sum of Rs. 15000.00 and Rs. 20000.00 respectively without debiting the above amounts in SB account No. 9320 standing in the name of Shri S. Kumar and credited those amounts in his own SB account. Signatures on authority letters, purported to have been given by the account holder of SB Nos. 9320 and 9986, did not tally with the signatures lodged in the bank at the time of opening of those accounts and authority letters dated 1-1-1993 pertain to earlier transactions during the month of March'92. When above irregularities/illegalities came to light, Shri Bakshi was suspended. Charge sheet was served upon him and his explanation was not found to be satisfactory. Enquiry Officer was appointed. During the course of enquiry, Shri Bakshi admitted the charges and pleaded his guilt. However, the Enquiry Officer proceeded with the enquiry and gave full opportunity to the claimant to defend himself. The Enquiry Officer submitted his report to the Disciplinary Authority. Notice of proposed punishment was served by the Disciplinary Authority, personal hearing was given and punishment of dismissal was awarded to him, vide order dated 13-7-1994.

8. Bank pleads that though the claimant repaid the amount and there was no financial loss, gravity of charges levelled against the claimant were serious in nature, which justified punishment of dismissal. Punishment awarded to him commensurate to the misconduct committed by him. The claimant admitted the charges levelled against him: (a) in his reply to the charge sheet, (b) at the time of commencement of the enquiry and (c) after receipt of enquiry report. He pleaded his guilt vide order letter dated 21-4-1994 also. Therefore, the claim put forth that the enquiry was arbitrary and uncalled for, has no legs to stand. Sufficient opportunities were given to the claimant to defend himself. Punishment awarded to him cannot be termed as shockingly disproportionate. Punishment was in consonance with his misconduct. He is not entitled to

relief of reinstatement. The claim, being devoid of merits, may be dismissed, pleads the bank.

9. In the rejoinder, the claimant reiterates the facts pleaded by him in his claim statement.

10. On pleading of the parties, following issues were settled :

- (i) Whether domestic enquiry conducted against the workman is fair and proper ?
- (ii) As in terms of reference.

11. Vide order No. Z-22019/6/2007-IR (C-II), New Delhi dated 11-2-2008, the case was transferred to Central Government Industrial No. 2, New Delhi, by the appropriate Government for adjudication. It was retransferred to this Tribunal by the appropriate Government vide its order No. L-12012/272/96-IR (B-II) dated 30-3-2011 for adjudication.

12. Issue No. 1 was treated as preliminary issue. Claimant had examined himself on 8-2-2001 to establish that the enquiry was unjust and improper, Shri L. J. Prasad was examined by the bank to prove that the enquiry was fair and proper. No other witness was examined by either of the parties.

13. Shri Rajesh Mahindru, authorized representative of the bank, moved an application on 8-9-2011 for getting legal representatives of Shri Bakshi impleaded, since he expired on 11-8-2007. Notice of the application was sent to the legal representatives of the deceased claimant. Shri Vinay Kumar Pandey, Advocate, who was representing the claimant during his life time, received the notice. Neither Shri Pandey nor legal representatives of the deceased claimant opted to appear before the Tribunal on any of the dates fixed for adjudication of the controversy.

14. Death of the claimant will not abate the proceedings, which are pending before this Tribunal. Sub-section (8) of Section 10 of the Industrial Disputes Act, 1947 announces that no proceedings pending adjudication in relation to an industrial dispute shall lapse merely by reason of death of a party to the dispute being a workman and the Tribunal shall complete the proceedings and submit its award to the appropriate Government. Therefore, the Tribunal has to proceed with the adjudication process.

15. On consideration of facts testified by the claimant and Shri L. J. Prasad, Manager, besides hearing the representative of the bank, preliminary issue was answered against the claimant and in favour of the bank, vide order dated 24-10-2011.

16. Arguments on proportionality of punishment were heard at the bar. Shri Rajesh Mahindru, authorised representative, advanced arguments on behalf of the bank. None came forward to present facts on behalf of legal heirs of the deceased claimant. I have given my careful consideration to the arguments advanced at the bar and

cautiously perused the records. My findings on issues involved in the controversy are as follows :

Issue No. 2 :

17. Charge sheet dated 30-8-1993 projects gravamen of misconduct committed by Shri Bakshi. For convenience, contents of the charge sheet are detailed herein below :

“While you were working as special assistant at our Extension Counter Air Force Station, Hindon, Ghaziabad, you :

- (a) debited/withdrew in/from certain SB accounts without sufficient balance by leaving a line in the ledger folio and remitted/credited the amounts at a later date in the lines which were left blank earlier.
- (b) Inserted fictitious credit entries in certain accounts without being supported by any credit vouchers and allowed debits/withdrawals against the same.
- (c) Passed vouchers/paid in cash without debiting in the respective accounts, as the accounts did not have sufficient balances.
- (d) Made debit entries in certain accounts by way of debit slips (CG-74) without any authorization from the account holder and corresponding credits of such debits were passed on to the account holders related to you.

Following circumstances appear against you on record in respect of the above transactions :

- (a) that you got opened/caused to have got opened 3 SB accounts in the name of your relatives such as :

S.No.	SB A/c No.	Name of the Party	Address
1.	9986	Mrs. Rama Bakshi Mrs. Rupali Bakshi & Mrs. Jyoti (jointly)	9/151, Sector 3, Rajendra Nagar, Ghaziabad
2.	9762	Mr. Amaranth Rai & Mrs. Sona Devi	-Do-
3.	8185	Mrs. Neelam Verma	-Do-

Besides the above accounts, you also opened SB account No. 7052 in your name.

That you had debited/withdrawn in/from the above 3 accounts without sufficient balance in the accounts by leaving a line in the ledger folios and remitted/credited the amounts at a

latter date in the lines which were left blank earlier. The particulars of the three accounts are as below :

In respect of SB Account No. 9986

Date of Debit	Cheque No.	Amount (Rs.)	Mode of Transfer	Credited on	Mode of Cr/Trs.
13-01-91	606461	25,500	Cash	15-03-91	Cash
20-01-92	615300	10,000	Cash	21-01-92	Cash
24-01-92	612782	-1,000	Cash	30-01-92	Cash
29-01-92	610488	15,000	Cash	30-01-92	Cash
31-01-92	610489	13,000	Cash	08-02-92	Cash
10-02-92	612784	6,000	Cash	11-02-92	Cash
11-02-92	612785	12,000	Cash	21-02-92	Cash
22-02-92	047215	19,500	Cash	16-03-92	Cash
24-02-92	613200	9,000	Cash	10-03-92	Cash
29-02-92	616156	16,000	Cash	28-03-92	Cash
03-04-92	616162	10,000	Cash	07-04-92	Cash
10-08-92	171544	1,000	Cash	14-08-92	OCC
08-06-91	0474	1,500	Cr. SB 7052	14-06-91	OCC
12-05-92	606468	3,000	Cash	15-05-92	OCC
					(fake credit)
23-05-92	613197	10,000	Cash	13-06-92	Tr. From SB 180

In respect of SB account No. 8185

21-10-91	0485617	10,000	Cash	22-10-91	Cash
03-01-92	0485618	2,400	Cash	04-01-92	LL-8/92
11-08-92	0477988	14,000	Cash	20-08-92	SB 9986
04-01-92	611528	7,500	Cash	22-01-92	Tr. SB-9986
13-07-92	OG-74	10,000	Trs.	05-01-92	Cash

In respect of SB Account No. 9388

31-12-91	OG-74	2,750	Tr.	03-01-92	OCC
					(fake credit)
31-03-92	OG-74	10,500	Tr.	13-04-92	Cash

In respect of SB Account No. 2226

28-04-92	OG-74	5,000	Tr.	18-06-92	Tr. From SB-7052
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- (b) That in SB account No. 9388 and 9986, following irregularities/fraudulent actions were observed.

In respect of SB account No. 9388, on 03-01-92, by showing a fake credit entry of Rs. 1,000.00 in the account without any support of credit voucher, debited/got debited the same amount.

Again on 02-04-92, a credit entry of Rs. 10,500 was inserted/got inserted in the same account without any credit voucher and debited Rs. 500 through a cheque no. 614161/01-04-1992 on the same day.

In respect of account No. 9986, on 10-04-92, inserted/got inserted a credit entry of Rs. 10,000 without any actual supporting voucher and debited/got debited the same amount on the same day vide cheque no. 613199/10-04-1992.

- (c) That on 16-04-92, a cheque no. 614146 drawn by Mrs. Rama Bakshi for Rs. 15,000 was passed for payment without debiting SB account No. 9986. Also on 11-05-92, a cheque no. 613198 for Rs. 20,000 was passed for payment without debiting the SB account No. 9986 on 11-05-92, a debit transfer slip (OG-74) was passed for Rs. 10,000 actually without debiting the SB account no. 9320 in the name of Mr. S. Kumar and the amount was credited to your SB account no. 7052.

- (d) In the matter of unauthorized debits (transfer slip entries)

Date	A/c. No.	Dr. from	Amount	Credited	Name	Amount
13-6-92	SB 180	C. Jagdish	10,000	S-9762	A. N. Rani	10,000
8-6-91	9762	A. N. Rani	1,500	SB-7052	I. M. Bakshi	1,500
19-6-92	10070	Mrs. V. Shalini	14,000	SB-7052	I. M. Bakshi	14,000
1-8-92	6310	H. S. Saini	15,000	SB-9986	Rukesh Kumar	15,000
22-1-92	9986	Rupesh Kumar	2,500	8185	Neelam Verma	2,500
31-12-91	9388	M. Mittal	2,750	7052	I. M. Bakshi	2,750
8-5-92	9320	Suresh Kumar	10,000	7052	I. M. Bakshi	10,000
17-6-92	285	Ranjit Singh	30,000	9986	Rama Bakshi	30,000
18-6-92	9320	Suresh Kumar	30,000	9986	Rama Bakshi	30,000
31-7-92	8185	Neelam Verma	1,000	7052	Neelam Verma	1,000
27-8-92	9762	A. N. Rani	3,000	9986	Rama Bakshi	3,000
13-6-92	180	Jagdish Chander	10,000	9762	A. N. Rani	10,000
Total						1,29,750

Also, it is alleged that the authority letters purported to have been given by the respective account holders of the SB account No. 9320, 9986, the signatures thereon do not tally with those lodged in the bank at the time of opening their respective SB account and the authority letters were dated 01-01-93 but the alleged transactions were earlier to that, i.e. during the month of May, 1992. Further, the cheque book with serial nos. 171526 to 171550 and 606461 to 606470 were issued to SB account no. 7052 in your name as per the bank records. Whereas, majority of these cheque leaves were utilized for withdrawing cash from SB account no. 9986 of Mrs. Rama Bakshi and family.

The cheque book serial nos. 611521 to 611530 was just issued without entering in cheque book issuing register and used for transactions in SB Account nos. 9986 and 8185.

It is evident from the above that by resorting to the fraudulent actions of causing various fictitious debits and credits in your SB account and the SB account of your relatives as narrated above, you have derived undue pecuniary benefits to yourself or to a third party knowing to you and thus exposed the bank to financial loss.

The above actions on your part constitute a gross misconduct under the provisions of the Bi partite settlement."

18. As projected above, Enquiry Officer was appointed by the bank. Claimant appeared before the Enquiry Officer and participated in the enquiry. Proceedings dated 24-2-1994 make it clear that the claimant admitted the charges before the Enquiry Officer on the very first day and pleaded guilty. Facts unfolded by him before the Enquiry Officer are reproduced thus :

"I stand by my explanation dated 20-9-1993 wherein I have admitted the charges levelled against me. Against the charge, I have no defence except to pray for mercy in view of my long service of eight years in the Army and I was given testimonials appreciating my services in the army. Copy of the same is submitted herewith, and 21 years in the bank there was unblemished record all the while.

The alleged withdrawals were made by me in state of mental tension because of my pressing financial needs during construction of my house. I had withdrawn amount with a view to re-credit them when my loan application which was under consideration and was sanctioned. It was purely circumstances which made me a victim but not any bad intention. Accordingly, I have recredited the entire

amount. I wish to draw your kind attention to the fact that I had repaid the amounts before the investigation and before the bank took any action against me. Further, bank has not suffered any loss.

I have realized my mistake and I have categorically assured the bank that I will never repeat such mistakes. Due to my suspension for the past one year, I have suffered mentally, emotionally and financially and this has served as a severe punishment. Sir, I am a family man with two grown up children and my salary is my only source of income. I therefore, humbly request you to take a lenient view in my case. I, therefore, request you to take in consideration my long service and pardon me."

19. The Enquiry Officer has submitted report dated 24-3-1994 wherein he found the claimant guilty of misconduct of 'doing acts prejudicial to the interest of the bank.' He concluded that Shri Bakshi had committed irregularities/illegalities detailed in the charge sheet and thus committed acts prejudicial to the interest of the bank, which is a misconduct under clause 19.5(j) of the Bi partite Settlement. In the light of these facts, it is to be considered as to what would be the quantum of punishment which ought to have been awarded to the deceased claimant. It is settled proposition of law that right of an employer to inflict punishment of discharge or dismissal is not unfettered. The punishment imposed must be commensurate with gravity of the misconduct, proved against the delinquent workman. Prior to enactment of section 11-A of the Act, it was not open to the industrial adjudicator to vary the order of punishment on finding that the order of dismissal was too severe and was not commensurate with the act of misconduct. In other words, the industrial adjudicator could not interfere with the punishment as it was not required to consider propriety or adequacy of punishment or whether it was excessive or too severe. Apex Court, in this connection, had, however, laid down in *Bengal Bhatdee Coal Company* [1963 (1) LLJ 291] that where order of punishment was shockingly disproportionate with the act of the misconduct which no reasonable employer would impose in like circumstances, that itself would lead to the inference of victimization or unfair labour practice which would vitiate order of dismissal or discharge. But by enacting the provisions of section 11-A of the Act, the Legislature has transferred the discretion of the employer, in imposing punishment, to the industrial adjudicator. It is now the satisfaction of the industrial adjudicator to finally decide the quantum of punishment for proved acts of misconduct, in cases of discharge or dismissal. If the Tribunal is satisfied that the order of discharge or dismissal is not justified in any circumstances on the facts of a case, it has the power not only to set aside order of punishment

and direct reinstatement with back wages, but it has also the power to impose certain conditions as it may deem fit and also to give relief to the workman, including award of lesser punishment in lieu of discharge or dismissal.

20. It is established law that imposing punishment for a proved act of misconduct is a matter for the punishing authority to decide and normally it should not be interfered with by the Industrial Tribunals. The Tribunal is not required to consider the propriety or adequacy of punishment. But where the punishment is shockingly disproportionate, regard being had to the particular conduct and past record, or is such as no reasonable employer would ever impose in like circumstance, the Tribunal may treat the imposition of such punishment as itself showing victimization or unfair labour practice. Law to this effect was laid by the Apex Court in *Hind Construction and Engineering Company Labour* [1965 (1) LLJ 462]. Likewise in *Management of the Federation of Indian Chambers of Commerce and Industry* [1971 (II) LLJ 630] the Apex Court ruled that the employer made a mountain out of a mole hill and had blown a trivial matter into one involving loss of prestige and reputation and as such punishment of dismissal was held to be unwarranted. In *Ram Kishan* [1996 (1) LLJ 982] the delinquent employee was dismissed from service for using abusive language against a superior officer. On the facts and in the circumstances of the case, the Apex Court held that the punishment of dismissal was harsh and disproportionate to the gravity of the charge imputed to the delinquent. It was ruled therein, "when abusive language is used by anybody against a superior, it must be understood in the environment in which that person is situated and the circumstances surrounding the event that led to the use of abusive language. No straightjacket formula could be evolved in adjudicating whether the abusive language in the given circumstances would warrant dismissal from service. Each case has to be considered on its own facts."

21. In *B. M. Patil* [1996 (11) LLJ 536], Justice Mohan Kumar of Karnataka High Court observed that in exercise of discretion, the disciplinary authority should not act like a robot and justice should be moulded with humanism and understanding. It was assess each case on its own merit and each set of fact should be decided with reference to the evidence recording the allegation, which should be basis of the decision. The past conduct of the worker may be a ground for assuming that he might have a propensity to commit the misconduct and to assess the quantum of punishment to be imposed. In that case a conductor of the bus was dismissed from service for causing revenue loss of 50p to the employer by irregular sale of tickets. It was held that the punishment was too harsh and disproportionate to the act of misconduct.

22. After insertion of section 11-A of the Act, the jurisdiction to interfere with the punishment is there with the Tribunal, who has to see whether punishment imposed by the employer is commensurate with the gravity of the act of misconduct. If it comes to the conclusion that the misconduct is proved, it may still hold that the punishment is not justified because misconduct alleged and proved is such as it does not warrant punishment of discharge or dismissal and where necessary, set aside the order of discharge or dismissal and direct reinstatement with or without any terms or conditions as it thinks fit or give any other relief, including the award of lesser punishment, in lieu of discharge or dismissal, as the circumstance of the case may warrant. Reference can be made to a precedent in Sanatak Singh (1984 Lab. I. C. 817). The discretion to award punishment lesser than the punishment of discharge or dismissal has to be judiciously exercised and the Tribunal can interfere only when it is satisfied that the punishment imposed by the management is highly disproportionate to the decree of the guilt of the workman. Reference can be made to the precedent in Kachraji Motiji Parmar [1994 (II) LLJ 332]. Thus it is evident that the Tribunal has now jurisdiction and power of substituting its own measure of punishment in place of the managerial wisdom, once it is satisfied that the order of discharge or dismissal is not justified. On facts and in the circumstances of a case. Section 11A of the Act specifically gives two folds powers to the Industrial Tribunal, first is virtually the power of appeal against findings of fact made by the Enquiry Officer in his report with regard to the adequacy of the evidence and the conclusion on facts and secondly of foremost importance, is the power of reappraisal of quantum of punishment.

23. Power to set aside order of discharge or dismissal and grant relief of reinstatement or lesser punishment is not untrammelled power. This power has to be exercised only when Tribunal is satisfied that the order of discharge or dismissal was not justified. This satisfaction of the Tribunal is objective satisfaction and not subjective one. It involves application of the mind by the Tribunal to various circumstances like nature of delinquency omitted by the workman, his past conduct, impact of delinquency on employer's business, besides length of service rendered by him. Furthermore, the Tribunal has to consider whether the decision taken by the employer is just or not. Only after taking into consideration these aspects, the Tribunal can upset the punishment imposed by the employer. The quantum of punishment cannot be interfered with without recording specific findings on points referred above. No indulgence is to be granted to a person, who is guilty of grave misconduct like cheating, fraud, misappropriation of

employers fund, theft of public property etc. A reference cannot be made to the precedent in Bhagirath Mal Rainwa [1995 (I) LLJ 960].

24. In the light of above legal propositions, it would be considered whether punishment awarded to the claimant does not commensurate to his misconduct? For an answer, it has to be considered that the claimant made debit/withdrawals without sufficient balance in various SB accounts. He passed cheques in cash without debiting the respective accounts. He inserted forged/fictitious credit entries in the accounts and debits were allowed against those entries. He made debit entries in certain accounts and amounts were withdrawn by means of OG-74 without authorization from the parties concerned. He got opened three SB accounts in the names of his relatives, besides opening a SB account in his own name. He credited cheque Nos. 614146 and 613198 to his own account without debiting the amounts of those cheques in SB account No. 9320, standing in the name of Shri S. Kumar. The authority letter purported to be given by Shri Sarvesh Kumar contains signatures which do not tally with his specimen signatures appearing on the account opening form. He utilized cheques from serial Nos. 611521 to 611530, though there was no entry in the cheque book issue register regarding issuance of those cheques and thus derived pecuniary benefit for himself. Thus, it is evident that the claimant committed serious acts of fraud and derived pecuniary benefits for himself. Though the amount defrauded was made good by him subsequently, yet that fact would not absolve him from accountability. Fraud or cheating is a very serious misconduct. One who commits fraud is also liable for penal consequences. By commission of fraud, an employee of the bank not only dupe his employer but the customers also. He tarnishes the image of the bank in the eyes of the general public. Such an employee makes his employer to lose faith in him. Therefore, misconduct of fraud is to be dealt with a stern hand. Taking into account all these aspect, I am of the considered opinion that punishment of dismissal from service is justified. No circumstances are there over record to announce that the punishment was shockingly disproportionate or mala fide or exercise of unfair labour practice. I do not consider it to be case for indulgence by this Tribunal. In view of these reasons, punishment awarded to the deceased claimant is found to be justified. His claim is liable to be dismissed. Accordingly the claim put forward by the deceased claimant is brushed aside. An award is, passed in favour of the bank and against the claimant. It be sent to the appropriate government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 24-07-2012

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2935.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 101/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-2011 को प्राप्त हुआ था।

[सं. एल-12012/244/1999-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2935.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 101/2011) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 7-8-2012.

[No. L-12012/244/1999-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING
OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1,
KARKARDOOMA COURTS
COMPLEX, DELHI

I. D. No. 101/2011

Shri R. L. Kapoor,
H. No. 3D/44, B.P.,
1st Floor, NIT, Faridabad,
Haryana

... Claimant

Versus

The General Manager,
Bank of Baroda, Zonal Office,
Parliament Street,
New Delhi-110001

... Management

AWARD

A Special Assistant, posted at Nehru Ground Branch, Faridabad, Bank of Baroda (in short the bank), fraudulently managed to obtain payment of Rs. 20,000.00 on 18-11-1989 by preparing withdrawal slip for the said amount drawn on SB Account No. 9864 in the name of Shri S. C. Gandhi by forging signatures of the account holder, passing it for cash payment and entering payment of the aforesaid amount in payment scroll. Thereafter, with a view to remove evidence against him, he managed to destroy all relevant

records, such as withdrawal slip and relevant pages of the payment scroll. In the same manner, on 28-6-90, he fraudulently managed to obtain payment of Rs. 10,000.00 by writing withdrawal slip for that amount drawn on SB Account No. 6979 in the name of Shri K. K. Sehgal by forging his signatures and passing it for cash payment. With a view to remove evidence, he destroyed all relevant records, viz. withdrawal slip and pages of payment scroll. He deleted/struck off relevant entries in supplementary book after cash book was written.

2. Show cause notice was served on the Special Assistant. When his reply was found to be unsatisfactory, charge sheet dated 4-8-1992 was served upon him. Domestic enquiry was conducted. He participated in the enquiry. Enquiry Officer recorded his report, wherein he held the charges stood proved. Disciplinary Authority awarded punishment of dismissal to the said Special Assistant, vide his order dated 25-9-1997. His appeal came to be dismissed. He raised an industrial dispute before the Conciliation Officer. As the conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication vide Order No. L-12012/244/99-IR (B-II), New Delhi dated 21-1-2000 with the following terms:

"Whether the action of the management of Bank of Baroda in ordering dismissal of services of Shri R. L. Kapoor. Special Assistant, vide order dated 25-9-1997 is just and legal? If not, to what relief the workman is entitled?"

3. The Special Assistant, namely R. L. Kapoor filed his claim statement, pleading therein that he was posted at Nehru Ground Branch, Faridabad, Bank of Baroda, in the year 1989-90. Show cause notice dated 13-7-1991 was served upon him, wherein it was alleged that he fraudulently managed to obtain payment of Rs. 20,000.00 on 18-11-1989 by writing withdrawal slip of the said amounts drawn on SB Account No. 9864, by forging signature of the account holder and passing the same for cash payment. It was also alleged that on 28-6-1990, he fraudulently obtained payment of Rs. 10,000.00 by preparing withdrawal slip of that amount, drawn on SB Account No. 6979, by forging signature of the account holder and passing the said voucher for payment. It was also alleged that he had destroyed the relevant records like withdrawal slips, payment scrolls and deleted relevant entry in the subsidiary book after cash book was written. He, vide his reply dated 7-8-1991, denied all the allegations. Charge sheet dated 4-8-1992 was served upon him. No opportunity was given to him to reply the charge sheet and in a hurry, the bank appointed Enquiry Officer on 4-8-1992 itself. Alongwith the charge sheet, relevant documents were not supplied to him. His demand for supply of documents was declined terming the documents demanded as irrelevant. Enquiry Officer failed to follow principles of natural justice. Despite his repeated

demands, witnesses, namely, Shir A. K. Suri, Shri Mani Ram, Shri R. A. Shastri and the Investigating Officer, who conducted the preliminary enquiry, were not examined. The bank deliberately produced Shri I. R. Goel, as witness, who had no knowledge of the facts. Vouchers dated 18-11-1989 and 28-6-1990, pertaining to SB Account No. 9864 and 6979 respectively, were not produced. Shri S. C. Gandhi and Shri K. K. Sehgal were also not produced before the Enquiry Officer. It was so done with a motive to exonerate Shri P. C. Aggarwal, Head Cashier, Shri Mani Ram, Daftary and Shri A. K. Suri, Manager of that branch from the misconduct committed by them.

4. Claimant projects that he was framed by the bank in a criminal case punishable under Section 420, 468 and 471 of the Penal Code, which case was based on the same facts. He requested the Enquiry Officer that the case was of grave nature and involves complicated questions of facts and law, hence it was not advisable to proceed with the enquiry till adjudication of the criminal case. However, in gross violation of principles of natural justice and fair play, the Enquiry Officer proceeded with the enquiry and ultimately Disciplinary Authority awarded punishment of dismissal to him.

5. The claimant projects that the report of the Enquiry Officer was perverse, since no positive evidence came over record relating to obtaining payment of Rs. 20,000.00 and Rs. 10,000.00 by preparation of withdrawal slips drawn on SB Account No. 9864 and 6979 respectively. He, further, projects that handwriting expert was not produced to prove that the withdrawal slips were prepared by him. According to him, Shri Mahender Kumar, who had obtained payment of Rs. 10,000.00 by mistake on 28-6-1990 and subsequently deposited that money along with interest, was not examined. Enquiry Officer had not considered the fact that the claimant had no authority to pass an instrument which exceeds Rs. 5,000.00. The above two instruments exceeded Rs. 5,000.00 and were not within his competence to pass it for payment. Narrating a few instances as to what evidence was deficient, the claimant asserts that the enquiry report was not in consonance with the evidence brought on record.

6. He agitates that his dismissal order dated 5-9-1997 is per se illegal, arbitrary, mala fide and bad in the eyes of law. According to him, his appeal was also rejected in a mala fide manner. He presents that his dismissal order cannot stand the test of legal scrutiny. He claims reinstatement in the service of the bank with continuity and full back wages.

7. Claim was resisted by the bank pleading that the dispute raised by the claimant is an individual dispute. Since no industrial dispute was existing, hence it was not within the competence of the appropriate Government to make reference of the dispute to this Tribunal. It has further been pleaded that the grievance of a single individual are

there is the dispute. Hence it cannot be referred to an Industrial Tribunal for adjudication. It has also been agitated that since the claimant has been convicted and sentenced to under rigorous imprisonment for a period of two years and to pay a fine of Rs. 2,000.00 by the local magistrate, in that situation, award, if any, which can be passed in favour of the claimant would not be enforceable in the eyes of law.

8. Bank presents that show cause notice dated 13-7-1991 was served on the claimant which was followed by charge sheet dated 4-8-1992. Domestic enquiry was conducted. Enquiry Officer proceeded with the enquiry in consonance with the principles of natural justice. Bank had discretion to proceed with the enquiry simultaneously, during pendency of a criminal trial. No illegality was committed when enquiry proceeded ahead. It has further been projected that all documents were supplied and due opportunities were given to the claimant to defend himself. Report of the Enquiry Officer is in consonance with the evidence adduced before him. Disciplinary Authority considered report of the Enquiry Officer, besides submissions made by the claimant before award of punishment of dismissal to him. His appeal was found to be without any merit. There is no case in favour of the claimant, which may justify any indulgence by this Tribunal.

9. In his rejoinder, the claimant reiterates those very facts, which were pleaded by him in his claim statement.

10. On pleadings of the parties, following issues were settled by my learned predecessor :

- (i) Whether charge sheet dated 4-8-1992 issued to the workman is defective ? If so, its effects ?
- (ii) Whether enquiry held against the workman is vitiated and not in accordance with law and rules of natural justice ?
- (iii) Relief and consequential benefits.

11. Vide Order No. Z-22019/6/2007-IR (C-II), New Delhi dated 11-2-2008, appropriate Government transferred the case to Central Government Industrial Tribunal No. II, New Delhi for adjudication.

12. Vide Order No. Z-22019/6/2007-IR (C-II), New Delhi dated 30-3-2011, the case was re-transferred by the appropriate Government to this Tribunal for adjudication.

13. On hearing the parties, vide order dated 25-5-2011 issues were re-casted as follows :

- (1) Whether enquiry conducted by the bank is just, fair and legal ?
- (2) Whether punishment awarded to the claimant commensurate with his misconduct ?

(3) As in terms of reference.

(4) Relief.

14. On consideration of the facts unfolded by the claimant and those deposed by Shri P. K. Kaushik and Shri S. N. Goswami, who were examined by the bank, besides submissions of the authorized representatives of the parties, Issue No. 1, which was treated as preliminary issue, was decided in favour of the bank and against the claimant vide order dated 1-11-2011.

15. Arguments were heard at the bar on proportionality of punishment. Shri S. N. Mehrotra, authorized representative, advances arguments on behalf of the claimant. Shri B. S. Chauhan, Authorized representative, presented facts on behalf of the bank. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on the issues involved in the controversy are as follows :

Issue No. 2 :

16. Factual matrix of the controversy are to be addressed to for ascertaining quantum of punishment for misconduct proved against the claimant. To know the allegations, charge sheet Ex. MW1 /3 is to be looked into, which deciphers allegations as follows :-

"1. On 18-11-1989 Shri R. L. Kapoor, Special Assistant, managed to fraudulently obtain payment of Rs. 20,000 :

- (i) by preparing/writing a withdrawal slip for the amount.
- (ii) which withdrawal slip was drawn on Saving Bank Account No. 9864 maintained at N.G. Faridabad Branch of Bank of Baroda.
- (iii) signatures of Shri H. C. Gandhi, the account holder, were forged on the slip.
- (iv) withdrawal slip was passed for cash payment.
- (v) Shri R. L. Kapoor was incharge, Saving Bank Department that day,
- (vi) he entered the contents of the withdrawal slip in payment scroll,

and with intent to remove evidence of the above misconduct Shri Kapoor managed to :

(a) destroy all relevant records viz. :

- (i) withdrawal slip,
- (ii) relevant pages of payment scroll etc.

2. On 28-6-90 he also managed to fraudulently obtain payment of Rs. 10,000 :

- (i) by preparing/writing a withdrawal slip for that amount.
- (ii) the withdrawal slip was drawn on Saving Bank Account No. 6979 maintained at N.G. Faridabad Branch of Bank of Baroda.
- (iii) signatures of Shri K. K. Sehgal, the account holder, were forged on the slip.
- (iv) the withdrawal slip was passed for cash payment.
- (v) Shri R. L. Kapoor was incharge, Savings Bank Department on that day too,
- (vi) he entered the contents of the withdrawal slip in payment scroll, and with intent to remove evidence of that misconduct Shri Kapoor managed to :

(a) destroy all relevant records viz. :

- (i) withdrawal slip,
- (ii) relevant pages of the payment scroll,
- (iii) deleted/struck off the entry of Rs. 10,000 in the supplementary book, after cash book was written.

3. Failed to Check Saving Bank Supplementaries on daily basis.

4. Not checked/verified postings of several cash payments of cheques/withdrawal forms for large amounts, before passing the same for payments".

17. The Enquiry Officer recorded his report dated 18-2-1997 wherein he concluded that all charges stood proved against the claimant. It would be in the fitness of things to extract conclusions arrived at by the enquiry officer which are re-produced thus :

"Conclusions

"All the evidences brought by the Management are direct evidence. There are in all five witnesses of the Management and statement of each witness is corroborated by one or more of the witnesses. All the documentary evidence is admissible as those are the documents of the bank kept in its ordinary course of business. All these documents form integral part of the evidence. There is no evidence brought out by the defence except self deposition of CSE in which he has admitted certain things. Nothing contrary could be brought out by the defense from the cross-examination of the witnesses. So in the light of the evidence put forward by the Management through

the proceedings of the enquiry, the documentary evidence on record and the circumstances of the case it is proved beyond doubt that :

- (i) Mr. R. L. Kapoor (CSE) has fraudulently withdrawn Rs. 10,000.00 from Saving Bank Account No. 6979 of Mr. K. K. Sehgal and Rs. 20,000.00 from Saving Bank Account No. 9468 of Mr. H. C. Gandhi by preparing vouchers/ withdrawal slip drawn on Bank of Baroda, N. G. Faridabad, posting in the ledger, entering into payment scroll and passing the same for payment. He received the said payment through Mr. Mahinder Kumar, a fictitious person. Circumstances of the case also indicate that with the intention of removal of evidence, he managed to destroy both the withdrawal slips after writing of the supplementary and tallying of the cash book.
- (ii) Mr. R. L. Kapoor had also not checked the Saving Bank Account supplementary on daily basis and had not checked/verified posting of cash payment for large amounts before passing them for payment.

So in the light of the foregoing and the logical conclusion of the enquiry it has been proved against Mr. R. L. Kapoor :

- (i) "That he did acts of fraud causing wrongful loss to the bank and wrongful gain to himself by fraudulently withdrawing/ receiving the payment of Rs. 10,000 and Rs. 20,000 from the Saving Bank Account Nos. 6979 and 9468 respectively without the authority of the account holders. He made wrongful gain to himself by receiving these payments through some fictitious person namely Mahinder Kumar SB Account No. 10553. On the dispute of these unauthorized payments bank had to refund amount to the account holders and hence Mr. Kapoor had made wrongful loss to the bank.
- (ii) That he did acts showing lack of integrity and honesty by receiving/withdrawing fraudulently the payment of Rs. 10,000 and Rs. 20,000 without the authority of the account holders. It was the act of dishonesty and doubtful integrity.
- (iii) That he did acts prejudicial to the interests of the bank. The object of the bank is to accept deposit from the public for the purpose of lending. The public deposits money with the bank with a trust that it would be kept safely and it would be

refunded to him at the time of need. This fraudulent act of Mr. Kapoor has shaken this trust and thereby adversely affecting the interest of the bank.

- (iv) That he did acts unbecoming bank employees. Bank expects from each of its employee to act most honestly without negligence and with integrity beyond doubt. Bank reposes in each of its employees an undoubted trust. These are some of the characteristics of becoming an employee of the bank. Hence by these fraudulent acts Mr. Kapoor did acts unbecoming of a bank employee.
- (v) That he did acts which tarnished image of the bank. Mr. Kapoor by his fraudulent act has shaken trusts of the public in the bank and thereby tarnished the image of the bank"

18. On consideration of the findings recorded by the Enquiry Officer, the Disciplinary Authority dismissed Shri Kapoor from service vide order dated 25-9-1997. Question for consideration comes as to whether there are any justifications for punishment of dismissal ? Right of an employer to inflict punishment of discharge or dismissal is not unfettered. The punishment imposed must be commensurate with gravity of the misconduct, proved against the delinquent workman. Prior to enactment of Section 11A of the Act, it was not open to the industrial adjudicator to vary the order of punishment on finding that the order of dismissal was too severe and was not commensurate with the act of misconduct. In other words, the industrial adjudicator could not interfere with the punishment as it was not required to consider propriety or adequacy of punishment or whether it was excessive or too severe. Apex Court, in this connection, had, however, laid down in *Bengal Bhatdee Coal Company* [1963 (1) LLJ 291] that where order of punishment was shockingly disproportionate with the act of the misconduct which no reasonable employer would impose in like circumstances, that itself would lead to the inference of victimization or unfair labour practice which would vitiate order of dismissal or discharge. But by enacting the provisions of Section 11A of the Act, the Legislature has transferred the discretion of the employer, in imposing punishment, to the industrial adjudicator. It is now the satisfaction of the industrial adjudicator to finally decide the quantum of punishment for proved acts of misconduct, in cases of discharge or dismissal. If the Tribunal is satisfied that the order of discharge or dismissal is not justified in any circumstances on the facts of a case, it has the power not only to set aside order of punishment and direct reinstatement with back wages, but it has also the power to imposed certain conditions as it may deem fit and also to

give relief to the workman, including award of lesser punishment in lieu of discharge or dismissal.

19. It is established law that imposing punishment for a proved act of misconduct is a matter for the punishing authority to decide and normally it should not be interfered with by the Industrial Tribunals. The Tribunal is not required to consider the propriety or adequacy of punishment. But where the punishment is shockingly disproportionate, regard being had to the particular conduct and past record, or is such as no reasonable employer would ever impose in like circumstance, the Tribunal may treat the imposition of such punishment as itself showing victimization or unfair labour practice. Law to this effect was laid by the Apex Court in *Hind Construction and Engineering Company Labour* [1965 (1) LLJ 462]. Likewise in *Management of the Federation of Indian Chambers of Commerce and Industry* [1971 (II) LLJ 630] the Apex Court ruled that the employer made a mountain out of a mole hill and had blown a trivial matter into one involving loss of prestige and reputation and as such punishment of dismissal was held to be unwarranted. In *Ram Kishan* [1996 (1) LLJ 982] the delinquent employee was dismissed from service for using abusive language against a superior officer. On the facts and in the circumstances of the case, the Apex Court held that the punishment of dismissal was harsh and disproportionate to the gravity of the charge imputed to the delinquent. It was ruled therein, "when abusive language is used by anybody against a superior, it must be understood in the environment in which that person is situated and the circumstances surrounding the event that led to the use of abusive language. No straightjacket formula could be evolved in adjudicating whether the abusive language in the given circumstances would warrant dismissal from service. Each case has to be considered on its own facts".

20. In *B. M. Patil* [1996 (11) LLJ 536], Justice Mohan Kumar of Karnataka High Court observed that in exercise of discretion, the disciplinary authority should not act like a robot and justice should be moulded with humanism and understanding. It was assess each case on its own merit and each set of fact should be decided with reference to the evidence recording the allegation, which should be basis of the decision. The past conduct of the worker may be a ground for assuming that he might have a propensity to commit the misconduct and to assess the quantum of punishment to be imposed. In that case a conductor of the bus was dismissed from service for causing revenue loss of 50p to the employer by irregular sale of tickets. It was held that the punishment was too harsh and disproportionate to the act of misconduct.

21. After insertion of Section 11A of the Act, the jurisdiction to interfere with the punishment is there with the Tribunal, who has to see whether punishment imposed by the employer is commensurate with the gravity of the

act of misconduct. If it comes to the conclusion that the misconduct is proved, it may still hold that the punishment is not justified because misconduct alleged and proved is such as it does not warrant punishment of discharge or dismissal and where necessary set aside the order of discharge or dismissal and direct reinstatement with or without any terms or conditions as it thinks fit or give any other relief, including the award of lesser punishment, in lieu of discharge or dismissal, as the circumstance of the case may warrant. Reference can be made to a precedent in *Sanatak Singh* [1984 Lab. I.C. 817]. The discretion to award punishment lesser than the punishment of discharge or dismissal has to be judiciously exercised and the Tribunal can interfere only when it is satisfied that the punishment imposed by the management is highly disproportionate to the decree of the guilt of the workman. Reference can be made to the precedent in *Kachraji Motiji Parmar* [1994 (II) LLJ 332]. Thus it is evident that the Tribunal has now jurisdiction and power of substituting its own measure of punishment in place of the managerial wisdom, once it is satisfied that the order of discharge or dismissal is not justified. On facts and in the circumstances of a case, Section 11A of the Act specifically gives two folds powers to the Industrial Tribunal, first is virtually the power of appeal against findings of fact made by the Enquiry Officer in his report with regard to the adequacy of the evidence and the conclusion on facts and secondly of foremost importance, is the power of reappraisal of quantum of punishment.

22. Power to set aside order of discharge or dismissal and grant relief of reinstatement or lesser punishment is not untramaled power. This power has to be exercised only when Tribunal is satisfied that the order of discharge or dismissal was not justified. This satisfaction of the Tribunal is objective satisfaction and not subjective one. It involves application of the mind by the Tribunal to various circumstances like nature of delinquency omitted by the workman, his past conduct, impact of delinquency on employer's business, besides length of service rendered by him. Furthermore, the Tribunal has to consider whether the decision taken by the employer is just or not. Only after taking into consideration these aspects, the Tribunal can upset the punishment imposed by the employer. The quantum of punishment cannot be interfered with without recording specific findings on points referred above. No indulgence is to be granted to a person, who is guilty of grave misconduct like cheating, fraud, misappropriation of employers fund, theft of public property etc. A reference cannot be made to the precedent in *Bhagirath Mal Rainwa* [1995 (1) LLJ 960].

23. In the light of above legal propositions, it would be considered as to whether punishment awarded to the claimant does not commensurate to his misconduct? As projected above, the claimant committed acts of fraud and dishonesty by way of fraudulently withdrawing of Rs. 10,000

and Rs. 20,000 out of Saving Bank Account Nos. 6979 and 9468 pertaining to Shri K. K. Sehgal and Shri H. C. Gandhi respectively. He prepared voucher/withdrawal slip drawn on Bank of Baroda, M.G. Faridabad, posted the aforesaid withdrawal slips in the ledger, entered into payments scroll and passed payment for the aforesaid withdrawal slips. He received the aforesaid payments in a fictitious name of one Mahinder Kumar. Besides the above acts of fraud he did not check saving bank supplementary on daily basis and had not checked/verified posting of cash payments for large amounts before passing the same for payment. All these facts bring it over the record that serious offences of fraud and dishonesty were committed by the claimant.

24. Fraud is serious misconduct besides, being a criminal offense. One who commits fraud and makes his employer liable to pay the amount defrauded to the customers, not only hoodwinks his employer but customers also. He puts his employer's reputation to stake in the eyes of the customers as well as general public. The customer, who finds himself defrauded, is put to shock and agony. On the other hand the employer lose faith in such an employee. All these factors are sufficient to conclude that such an employee loses his right to continue in job.

25. Whether such employee should be awarded punishment of discharge simpliciter? Punishment of discharge simpliciter neither operates as stigma nor debars him from getting retiral benefits. Retiral benefits are given to an employee for efficient services rendered to the employer. One who defrauded the employer as well as the customer cannot be said to have rendered efficient service. Therefore such an employee cannot put a claim for retiral benefits. His debase act would make him to receive ultimate penalty. Therefore I am of the considered opinion that no case is made out to show that punishment awarded to the claimant was disproportionate to his misconduct warranting interference by the Tribunal. No case of victimization, malafide or unfair labour practice has been put forward by the claimant, in the matter of award of punishment to him. All these reasons would make me to comment that punishment awarded to the claimant commensurate to his misconduct. Issue is, therefore, answered in favour of the bank and against the claimant.

Issue No. 3 and 4 :

9. Not even an iota of evidence was brought over the record by the claimant to question legality of punishment awarded to him. When there is vacuum of evidence of malafide, arbitrariness, victimization and exercise of unfair labour practice on the part of the bank, it cannot be said that punishment awarded to the claimant was not justified. There cannot be any reason to inter-meddle with the punishment of dismissal awarded to the claimant. Consequently it is announced that punishment of dismissal awarded to the claimant vide order dated 25-9-1997 commensurate his misconduct and withstands standards

of legality as well as justifiability. No interference is called for in the punishment by this Tribunal. Claim put forward by Shri Kapoor is liable to be brushed aside. Accordingly, his claim is dismissed. An award is passed in favour of the bank and against the claimant. It be sent to the appropriate government for publication.

Dated : 20-7-2010 Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2936.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ओवर्सीज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 34/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/86/2011-आई आर (बी-11)]
शीश राम, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2936.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2012) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 16-8-2012.

[No. L-12012/86/2011-IR (B-II)]
SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 14th August, 2012

PRESENT :

A. N. JANARDANAN, Presiding Officer.

Industrial Dispute No. 34/2012

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947).

between the Management of Indian Overseas Bank and their workman]

BETWEEN

Sri M. Rajagopal : 1st Party/Petitioner

Vs.

The Asstt. General Manager : 2nd Party/Respondent
Indian Overseas Bank
Vigilance Department
No. 763, Anna Salai
Chennai-600002

APPEARANCE :

For the 1st Party/Petitioner : In Person

For the 2nd Party/Management : M/s. N.G.R. Prasad,
Advocates

ORDER

The Central Government, Ministry of Labour vide its Order No. L-12012/86/2011-IR (B-II) dated 24-5-2012 referred the following Industrial Dispute to this Tribunal for adjudication :

The schedule mentioned in that order is :

“Whether the action of the management of Indian Overseas Bank in imposing the punishment of compulsory retirement with superannuation benefits without disqualification from future employment upon Shri M. Rajagopal, Ex-Messenger vide Order dated 23-10-2010 is legal and justified ? What relief the workman is entitled to ? ”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 34/2012 and issued notices to both sides. Respondent through Advocate entered appearance. Petitioner has also been present or represented in the ID. No Claim or Counter Statement was filed by either of the parties. On scrutiny this reference is found to be one and the same as claimed in ID 99/2011 filed directly by the same petitioner.

3. In this reference the question referred is the same as mooted in ID 99/2011 by way of Direct Filing at the instance of the petitioner enabling him by virtue of the amendment of the ID Act, 1947 w.e.f. 15-9-2010 to have recourse to that procedure. In ID 99/2011 the proceedings have already commenced and have now reached the stage of enquiry. The parties in both are one and the same. It is no longer necessary to continue the proceedings in this ID in view of the fact that the question referred would be answered in the directly filed ID viz. 99/2011 with the required efficacy.

4. Resultantly this ID (ID 34/2012) is closed. A copy of this order will be forwarded to the Ministry of Labour and Employment for information.

5. The reference is therefore closed.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 14th August, 2012)

A. N. JANARDANAN, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2937.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 47/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-08-2012 को प्राप्त हुआ था ।

[सं. एल-12012/78/2005-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2937.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 47/2005) of the Central Government Industrial Tribunal/Labour Court, Bangalore, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 8-8-2012.

[No. L-12012/78/2005-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

Dated : 9th July 2012

PRESENT:

Shri S. N. NAVALGUND, Presiding Officer

C.R. No. 47/2005

I Party

II Party

Shri Basavanneppa
Hanumanthappa Police,
H. No. 953, Ambani Temple,
Anandnagar, Old Hubli,
Hubli-580024

The Chairman,
Syndicate Bank,
Head Office, Manipal,
Karnataka-576119

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and Sub-section

2A of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred this dispute vide order No. L-12012/78/2005-IR (B-II) dated 7-11-2005 for adjudication on the following Schedule :

SCHEDULE

“Whether the management of Syndicate Bank is justified in compulsorily retiring Shri Basavanappa Hanumanthappa Police from the services of the Bank ? If not, to what relief the aggrieved workman is entitled to ?”

2. The brief facts leading to this reference and award may be stated as under Shri Basavanappa Hanumanthappa Police (hereinafter referred as first party) who joined as sub staff on 22-06-1973 with Syndicate Bank (hereinafter referred as second party) while serving at its Currency Chest, Hubli served with charge sheet dated 25-3-2004 as under :

Charge sheet

It is alleged against you :

That you are working as Attender at Regional Office, Hubli since 27-8-1999 and while working as such the following circumstances appear against you in the matter of your frequent absence from duties without prior information/sanction of leave from the Competent Authority.

That you are in the habit of absenting from duties at frequent intervals without submission of leave application and without prior sanction of leave from the competent authority and thus causing lot of inconvenience to the functioning of the Office/Bank. Knowingly fully well that you have exhausted all kinds of leave, you remained absent from duties unauthorisedly.

The Competent Authority has treated your following absence as Unauthorised :

Sl. Period No.	No. of days
1. 9-10-2003 to 31-1-2003	23
2. 10-3-2003 to 13-3-2003	4
3. 17-4-2003 to 19-4-2003	3
4. 5-5-2003	1
5. 26-5-2003	1
6. 2-6-2003	1
7. 16-6-2003	1
8. 31-7-2003	1
9. 4-8-2003 to 19-8-2003	16

Sl. Period No.	No. of days
10. 3-10-2003	1
11. 3-11-2003 to 4-11-2003	2
12. 1-12-2003 to 2-12-2003	2
13. 5-12-2003 to 6-12-2003	2
14. 15-12-2003 to 31-12-2003	17

Your total unauthorised absence had reached 938 days as on 31-12-2003. That your services are sparingly available to the Bank during the year 2003 and the details of your attendance are as under :

Ref. No. CGS(W)/ZOU/IRC/9/2004 dt. 25-3-04

Month	No. of days
January 2003	3
February 2003	19
March 2003	17
April 2003	19
May 2003	21
June 2003	17
July 2003	12
August 2003	12
September 2003	25
October 2003	24
November 2003	21
December 2003	8

The above circumstances go to show that you are highly irregular in attending the office and your irregular attendance is causing lot of inconvenience to the functioning of the Bank.

That reference is drawn to the following Charge sheets/Show cause Notices/Charge sheet cum Show cause Notices issued to you for minor misconducts of “Absence without leave” and “Irregular Attendance”.

1. CGS(W)/ZOM/DGM/26/1997 dated 27-10-1997
2. CGS(W)/ZOU/IRC/54/1998 dated 11-12-1998
3. CGS(W)/ZOU/IRC/99/60 dated 1-9-1999
4. CGS(W)/ZOU/IRC/2000/24 dated 1-4-2000
5. CGS(W)/ZOU/IRC/2001/19 dated 15-5-2001

That reference is also drawn to following proceedings of the Disciplinary Authority imposing punishments on you for minor misconducts of “Absence without leave”

and "Irregular Attendance" in respect of the above referred Charge sheets :

01. Proceedings No. PRS(W)/ZOM/DGM/97/37 dated 31-12-1997—"WARNING"

02. Proceedings No. PRS(W)/ZOU/DGM/IRC/99/13 dated 25-1-1999—"STOPPAGE OF ONE INCREMENT FOR SIX MONTHS".

03. Proceedings No. PRS(W)/DGM/ZOU/1999/76 Dated 5-10-1999—"WARNING"

04. Proceedings No. PRS(W)/ZOU/DGM/2000/58 dated 28-9-2000—"STOPPAGE OF ONE INCREMENT FOR SIX MONTHS".

05. Proceedings No. PRS(W)/ZOU/DGM/2001/42 dated 13-11-2001—"STOPPAGE OF ONE INCREMENT FOR SIX MONTHS".

That inspite of ample opportunities given to you, you continue to violate the leave rules and absented from duties at frequent intervals unauthorisedly.

The above circumstances go to show that you have been absenting from duties unauthorisedly at frequent/regular intervals without submission of leave from the competent authority and violated the leave rules and that you are highly irregular in attending the office/Bank. Your said acts are highly objectionable and amount to misconducts under the provisions of Bipartite Settlement.

Ref. No. CGS(W)/ZOU/IRC/9/2004 dt. 25-3-04

In terms of Clause No. 5 (f) of Bipartite Settlement dated 10-4-2002 habitual doing of any act which amounts to minor misconduct will become a gross misconduct if the same misconduct is committed on three previous occasions and awarded with punishments. The details furnished in the earlier paras show that the Bank initiated Disciplinary Action against you for the minor misconducts of "Absence without leave" and "Irregular Attendance" on three/five occasions (referred above) and awarded punishments.

Therefore for your absence without leave (as referred above), you are charged with the commission of gross misconduct of "Habitual doing of acts of absence without leave" vide Cl. No. 5(f) of the Bipartite Settlement dated 10-4-2002.

For your irregular attendance (as referred above), you are charged with the commission of gross misconduct of "Habitual doing of acts of irregular attendance" vide clause No. 5(f) of the Bipartite Settlement dated 10-4-2002.

The above referred proceedings also show that you were awarded with punishments on two occasions for the gross misconduct of "REMAINING UNAUTHORISEDLY ABSENT WITHOUT INTIMATION CONTINUOUSLY FOR A PERIOD EXCEEDING 30 DAYS" vide Cl. No. 5(p) of Bipartite Settlement dated 10-4-2002.

The above charges are based on the following documents and xerox copies of the same are enclosed :

1. Letter No. 6227/1228/PER/NSK dated 10-2-2004 of RM, RO, Hubli
2. Staff Card
3. Attendance Register of RD, Hubli for the year 2003:
4. Proceedings No. PRS(W)/ZOM/DGM/97/37 dated 31-12-1997
5. Proceedings No. PRS(W)/ZOU/DGM/IRC/99/13 dated 25-1-1999
6. Proceedings No. PRS(W)/DGM/ZOU/1999/76 dated 5-10-1999
7. Proceedings No. PRS(W)/ZOU/DGM/2000/58 dated 28-9-2000
8. Proceedings No. PRS(W)/ZOU/DGM/2001/42 dated 13-11-2001

You are required to submit your written statement of defence, if any within 10 days of receipt of these Charge sheets.

3. The first party by his letter dated 29-3-2004 addressed to the Disciplinary Authority sought for 30 days time to give reply to the charge sheet and though he was provided time to give his reply till 10-4-2004 and intimated accordingly by the letter of Disciplinary Authority dated 30-3-2004 since he did not submit his reply the Disciplinary Authority while appointing Shri K.S. Surya Prakash as Enquiry Officer and Shri R.P. Yaji, Sr. Branch Manager as Management Representative initiated the Domestic Enquiry to enquire into the charges. Accordingly the enquiry officer after conducting the enquiry in which he recorded the evidence of Shri Sanjeevamurthy, MWI and exhibited letter dated 10-2-2004, issued to the first party by the Regional Manager, Hubli regarding his unauthorized absence various days between 1-01-2003 to 31-12-2003; staff card of first party for the years 2002 to 2004 wherein his unauthorized absence is accounted; attendance register of first party for the year 2003 wherein the absence is marked as UAA; Proceedings dated 31-12-1997 in respect of charge sheet dated 27-10-1997 issued to the first party for his unauthorized absence of 83 days during the years 1996 and 1997; proceedings dated 25-01-1999 for his unauthorized absence of 124 days during the years 1997 and 1998; proceedings dated 5-10-1999 for his unauthorized absence of 140 days during the years 1998 and 1999; proceedings dated 28-9-2000 in respect of his unauthorized absence for 53 days during the years 1999 and 2000; proceedings dated 13-11-2001 for his unauthorized absence of 96 days during the years 2000 and 2001 and letter addressed to the first party by the Regional Manager, Syndicate Bank, Hubli regarding his absence from 9-1-2003

onwards as Ex. MEX.1 to MEX.9 for the management and also recorded the statements given by the first party, after the management representative and Defence Representative submitting their written briefs submitted his findings dated 26-7-2004 charge being proved. Thereafter, the Disciplinary Authority while forwarding the copy of the enquiry report to the first party affording an opportunity of hearing having found no reason to differ from the enquiry finding issued second show cause notice proposing Compulsory Retirement with Superannuation Benefits and without disqualification for future employment for the gross misconduct habitual act of unauthorized absence and irregular attendance as contemplated under Clause 5(f) of the Bipartite Settlement by his order dated 13-8-2004. On appeal by the first party to the Appellate Authority he too after affording opportunity of hearing upheld the punishment imposed by the Disciplinary Authority by his order dated 10-12-2004. Then on failure of the conciliation proceedings raised by the first party the Central Government made this reference for adjudication.

4. After receiving evidence adduced by the parties and hearing arguments of the representatives of both sides by order dated 8-9-2011, the domestic enquiry conducted against the first party being held as fair and proper the Representatives of both sides are heard on merits after the first party giving his evidence on victimization and unemployment, the points now remains for my consideration are :

- (i) Whether the finding of the enquiry officer is perverse necessitating interference of this court?
- (ii) If not, whether the punishment of Compulsory Retirement with Superannuation Benefits and without disqualification for future employment by the Disciplinary Authority confirmed by the Appellate Authority is disproportionate to the gross misconduct proved against the first party?
- (iii) What award?

5. On appreciation of the pleadings by way of claim statement filed by the first party and counter statement by the second party with the evidence brought on record during the Domestic Enquiry as well as the impugned orders passed by the Disciplinary Authority and Appellate Authority and the finding of the enquiry officer, in the light of the arguments put forward for both the sides my finding on point Nos. (i) & (ii) are the 'Negative' and point No. (iii) is as per the final award for the following reasons :

Reasons

6. There being no dispute the first party remaining absent for a period of 75 days during 2003 as detailed in the charge sheet as well as being earlier punished under

Proceedings No. PRS(W)ZOM/26/1997 dated 27-10-1997 Warning, No. PRS(W)ZOU/DGM/IRC/99/13 dated 25-1-1999—Stoppage of one Increment for six months, No. PRS(W)DGM/ZOU/1999/76 dated 5-10-1999 Warning, No. PRS(W)ZOU/DGM/2000/58 dated 28-09-2000—Stoppage of one Increment for six months and No. PRS(W)ZOU/DGM/2001/42 dated 13-11-2001—Stoppage of one Increment for six months and there is also no dispute he had exhausted all sorts of leave including extraordinary leave that could be availed by him to the maximum of 370 days, absolutely I find no reason to say the finding of the enquiry officer being perverse or for such habitual irregular attendance imposing the punishment of Compulsory Retirement with Superannuation Benefits and without disqualification for future employment is disproportionate. The only argument that was addressed on behalf of the first party was that the second party ought to have granted extraordinary (EOL) leave to the first party since he was compelled to remain absent unauthorisedly for a period of 75 days during 2003 due to sickness. It is borne out from the records that the first party during his entire service besides exhausting all sorts of leave available to him and inspite of imposing punishments on 5 occasions, 3 times for minor misconduct and two occasions for gross-misconduct for remaining unauthorised absence, since he did not improve in his attendance and on 14 occasions during 2003 remained unauthorisedly absent he could not have been granted extraordinary leave and the management had no other option except to come to a conclusion that he had no intention to continue his job by his habitual irregular unauthorized absence. Therefore, the arguments put forward on his behalf that his 75 days absence could have been excused by the management granting him extraordinary leave is not available to him. Under the circumstances absolutely I find no reason either to interfere in the finding of the enquiry officer the charge being proved or to say that the punishment imposed by way of Compulsory Retirement with Superannuation Benefits and without disqualification for future employment for such habitual irregular attendance is disproportionate. Accordingly while coming to the conclusion of answering point Nos. (i) & (ii) in the 'Negative' I pass the following award :

AWARD

The reference is rejected holding that the management of Syndicate Bank is justified in Compulsorily Retiring Shri Basavanappa Hanumanthappa Police from service with Superannuation Benefits and without disqualification for future employment and he is not entitle for any relief.

(Dictated to PA transcribed by her corrected and signed by me on 9th July, 2012).

S. N. NAVALGUND, Presiding Officer

Annexure CR 47/2005**List of witnesses for the Management/Second Party**

1. Shri K. S. Surya Prakash, Chief Manager, MW1
Syndicate Bank

List of documents marked for the Second Party/Management

1. Charge sheet dated 25-3-2004 issued to the first party. Ex. M1
2. Letter dated 29-3-2004 from the first party. Ex. M2
3. Letter dated 30-3-2004 issued to the first party by the Disciplinary Authority. Ex. M3
4. Letter dated 23-4-2004 regarding appointment of enquiry officer issued to the first party by the DA. Ex. M4
5. Order dated 14-6-2004 regarding appointment of management representative. Ex. M5
6. Notice dated 14-6-2004 of the enquiry officer. Ex. M6
7. Enquiry proceedings dated 28-6-2004. Ex. M7
8. Documents produced in the enquiry (MEX 1 to MEX 9). Ex. M8
9. Enquiry findings dated 26-7-2004 Ex. M9
10. Letter dated 27-7-2004 of DA addressed to the first party. Ex. M10
11. Submissions dated 9-8-2004 of the first party. Ex. M11
12. Letter dated 13-8-2004 of DA addressed to first party (2nd show cause notice). Ex. M12
13. Proceedings of personal hearing dated 30-8-2004 before the DA. Ex. M13
14. Proceedings dated 31-8-2004 of Disciplinary Authority. Ex. M14
15. Proceedings dated 10-12-2004 of the Appellate Authority. Ex. M15

List of witnesses for the First Party

1. Shri B.H. Police, first party. WW 1
2. Shri M. Anantha Krishna, Secretary of the Syndicate Bank Employees Union. WW 2

List of documents marked for the First Party

1. Staff card of the first party. Ex. W1
2. Special Leave Scheme of the Second Party dated 29-1-2004. Ex. W2
3. Copy of letter of first party dated 29-3-2004. Ex. W3
4. Copy of letter of first party dated 10-4-2004. Ex. W4
5. Copy of submission of enquiry report dated 9-8-2004. Ex. W5
6. Copy of Appeal with AD Card dated 17-9-2004. Ex. W6
7. Copy of dispute raised before the ALC(C) dated 26-3-2005. Ex. W7
8. Copy of Conciliation Proceedings dated 6-5-2005. Ex. W8
9. Copy of FOC of ALC(C) dated 6-5-2005 Ex. W9

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2938.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 43/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2012 को प्राप्त हुआ था।

[सं. एल-12012/22/2003-आई आर (बी-11)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2938.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 43/2011) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 14-8-2012.

[No. 1-12012/22/2003-IR (B-II)]
SHIESH RAM, Section Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, KARKARDOOMA COURTS
COMPLEX, DELHI**

I.D. No. 43/2011

Shri Sunder Lal Dangwal,
S/o Sh. Madhva Nand Dangwal,
C/o Jayanti Prasad Gairola,
R/o 17/23, Mussorie Road,
Post Rajpur, Dehradun

... Workman

Versus

The Asstt. General Manager,
Union Bank of India,
Regional Office, Radha Place,
Rajpur Road, Dehradun

... Management

AWARD

Shri Sunder Lal Dangwal claimed himself to be an employee of Union Bank of India (in short the bank) at its Tehri branch. According to him, he served the bank from 8-10-95 to 18-12-2001. He submitted an application for regularisation of his service, which act annoyed the bank. Consequently his services were abruptly terminated. Feeling aggrieved by that act, he raised an industrial dispute before the Conciliation Officer. Bank resisted the claim and as such conciliation proceedings failed. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-12012/22/2003/IR (B-II) New Delhi dated 31-3-2003, with the following terms :

“Whether the action of the management of Union Bank of India in terminating the services of Shri Dangwal with effect from 18-12-2001 is just, fair and legal? If not, what relief he is entitled to?”

2. Claim statement was filed by Shri Sunder Lal Dangwal pleading therein that he worked with the bank as Class IV employee since 8-10-1995, in its Tehri branch. In Tehri branch of the bank there was Branch Manager and a Clerk, besides him. He continuously served the said branch till 18-12-2001. He was paid wages on vouchers with different names. Payment of wages in that fashion amounted to unfair labour practice on the part of the bank. He moved an application dated 29-10-2001 for regularisation of his services. This irked the branch authorities. When regular staff was posted in Tehri branch of the bank, his services were dispensed with on 18-12-2001. No notice or pay in lieu thereof was given to him. Termination of his services is against the principles of natural justice. He claims

reinstatement in services of the bank with continuity and full back wages.

3. Demurral was made by the bank pleading that the claimant was never engaged as an employee at any point of time. Relationship of employer and employee never existed between the claimant and the bank. Claimant was not a workman and as such present reference is bad. Bank presents that for recruitment of an employee selection process is to be followed. No such process was followed and no appointment letter was given to the claimant. In such a situation, no question of termination of his service would arise. There was no occasion for giving notice or pay in lieu thereof. His claim is not maintainable, hence it may be dismissed, pleads the bank.

4. In rejoinder the claimant reiterates facts pleaded in the claim statement.

5. On pleadings of the parties, following issues were settled by my learned predecessor :

- (i) Whether reference is bad in law as mentioned in Paras 1 and 4 of the written statement ?
- (ii) Whether there exists any cause of action in favour of the applicant ?
- (iii) Whether the claim is not properly espoused ?
- (iv) Whether the claimant is workman ?
- (v) Whether this court has jurisdiction ?
- (vi) Where there does not exist any relationship of employer and employee between the workman and the management ?
- (vii) As per reference.

6. Vide Order No. Z-22019/6/2007-IR(C-II), New Delhi dated 11-2-2008, the appropriate Government transferred the case to Central Government Industrial Tribunal No. 2, New Delhi, for adjudication. Case was retransferred to this Tribunal, vide Order No. L-12012/22/2003-IR (B-II), New Delhi, dated 30-3-2011, by the appropriate Government for adjudication.

7. Affidavit dated 10-4-2007 was filed on behalf of the claimant as evidence. But the claimant never entered the witness box to allow an opportunity to the bank to purify contents of his affidavit by an ordeal of cross examination. It is apparent that no opportunity was given to the bank to ascertain veracity of contents of the said affidavit. Under these circumstances, contents of that affidavit cannot be read against the bank. Resultantly, contents of the affidavit are discarded from consideration.

8. The claimant opted to abandon the proceedings from 30-5-2011. When none appeared on behalf of the

claimant, this Tribunal was constrained to proceed with the matter under rule 22 of Industrial Disputes (Central) Rules, 1957. Accordingly, evidence of the claimant was closed.

9. Affidavit of Shri A.K. Pujara was tendered as evidence on behalf of the Bank.

10. Shri Pawan Behl, authorized representative, advanced arguments on behalf of the Bank. None came forward to present facts on behalf of the claimant. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the record. My findings on the issues involved in the controversy are as follows :

Issue No. 6

11. Onus lies on the claimant to establish that he was an employee of the bank. To discharge the onus, it is incumbent upon him either to enter the witness box himself or examine someone else on his behalf. As detailed above, affidavit tendered by the claimant cannot be read as a piece of evidence. Under these circumstances, there is no evidence on the record to conclude facts in favour of the claimant.

12. Whether relationship of employer and employee existed between the parties? For an answer to this opposition, it is to be appreciated as to how a contract of service is entered into. The relationship of employer and employee is constituted by a contract, express or implied between employer and employee. A contract of service is one in which a person undertakes to serve another and to obey his reasonable orders within the scope of the duty undertaken. A contract of employment may be inferred from the conduct which goes to show that such a contract was intended although never expressed and when there has, in fact, been employment of the kind usually performed by the employees. Any such inference, however, is open to rebuttal as by showing that the relation between the parties concerned was on a charitable footing or the parties were relations or partners or were directors of a limited company which employed no staff. While the employee, at the time, when his services were engaged, need not have known the identity of his employer, there must have been some act or contract by which the parties recognized one another as master or servant.

13. Besides the affidavit, referred above, copies of bunch of documents were filed by the claimant along with his claim statement. Those documents were denied by the bank when same were put to it for admission. Thus, copies of these documents nowhere constitute as piece of evidence, since the claimant failed to prove the same. Under these circumstances, copies of those documents cannot be read in favour of the claimant.

14. Since affidavit dated 10-4-2007 and copies of documents are discarded, there remains no evidence over

record to ascertain as to whether the claimant was ever engaged by the bank as a Class IV employee. Contra to it, Shri Anil Kumar Pujara swears in his affidavit that the claimant was ever engaged by the bank or its Chief Manager/Manager to work at its Tehri branch. He specifically declares that the claimant was never engaged by the bank as its employee. Consequently, it is emerging over the record that the claimant has miserably failed to establish that he was ever engaged by the bank to work at its Tehri branch. Resultantly, it is concluded that the claimant could not establish that relationship of employer and employee existed between him and the bank. The issue is, accordingly, answered in favour of the bank and against the claimant.

Issue Nos. 1, 2, 3, 4 and 5

15. When relationship of employee and employer has not been shown to exist between the claimant and the bank, issue No. 1 to 5 loses its efficacy. No necessity would arise to proceed with adjudication of the aforesaid issues. Consequently, the above issues are discarded, being redundant.

Issue No. 7

16. Since relationship of employee and employer between the bank and the claimant was not established, there was no occasion for the bank to terminate the services of the claimant. Accordingly, it is concluded that the present reference is not competent. No relief can be granted to the claimant. His claim is brushed aside. An award is, accordingly, passed in favour of the bank and against the claimant. It be sent to the appropriate Government for publication.

Dr. R.K. YADAV, Presiding Officer

Dated : 6-8-2012

नई दिल्ली, 24 अगस्त, 2012

क्र.आ. 2939.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एल सी/आर/42/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-08-2012 को प्राप्त हुआ था।

[सं. एल-12012/24/2006-आई आर (बी-II)]

शीरा राम, अनुभाग अधिकारी

New Delhi, the 24th August, 2012

S.O. 2939.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. CGIT/

LC/R/42/2006) of the Central Government Industrial Tribunal/Labour Court, Jabalpur, now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 16-8-2012.

[No. L-12012/24/2006-IR (B-II)]
SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/42/2006

SHRI MOHD. SHAKIR HASAN, Presiding Officer

Shri Sunil Kumar Tamrakar,
S/o Late Shri Ramkaran Tamrakar,
Jhanda Chowk, Near Shiv Mandir,
Rajeev Nagar, Durg (CG) ... Workman

Versus

The Zonal Manager,
Bank of India,
Ashirvad Market, Lordganj,
Jabalpur ... Management

AWARD

Passed on this 6th day of August, 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-12012/24/2006-IR(B-II) dated 1-8-2006 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the management in relation to Bank of India in terminating the service of Shri Sunil Kumar Tamrakar, Courier Boy-cum-Sepoy on 26-7-04 by verbal orders of Branch Manager, Durg Branch is legal and justified? If not, to what relief is the concerned workman entitled ? "

2. The case of the workman, in short, is that the workman Sunil Kumar Tamrakar was working as casual labour from August, 1989 in the management Bank and worked continuously till July, 2004. Thereafter he was terminated from service. He worked in different capacity under number of Branch Managers. It is stated that before termination, he was not issued any notice. It is submitted that the workman be reinstated with back wages.

3. The management appeared and filed Written Statement in the case. The case of the management, inter-alia, is that there was no relationship of employer and employee between the management and the alleged workman. As such there is no industrial dispute. It is stated

that the Branch Managers in order to ensure smooth customers service are required to engage any person whenever there is a temporary increase of work of casual nature and/or where regular sub-staffs are on leave. The alleged workman was engaged for few days intermittently on daily wages due to either increase of work or due to absence of regular sub-staff. He was never worked for 240 days in any calendar year. He was on daily wages as and when he was engaged. It is submitted that the workman is not entitled to any relief.

4. On the basis of the pleadings of the parties, the following issues are framed for adjudication :

(I) Whether the action of the management in terminating the service of Shri Sunil Kumar Tamrakar w.e.f. 26-7-2007 is legal and justified ?

(II) To what relief the workman is entitled ?

5. The workman after filing statement of claim and photocopies of document became absent. He did not appear inspite several opportunities granted to him. Lastly the reference proceeded ex parte against the workman on 19-5-2011.

6. Issue No. I

To prove the case of the management, one witness is examined. The management witness Shri Sanjay Pahade is working as Chief Manager in the Bank of India, Durg Branch. He has supported the case of the management. He has stated at para-9 in his evidence that the alleged workman was engaged for few days on daily wages. He never worked 240 days in any of the calendar year. He has denied that the workman was engaged continuously from 1-8-89 to 26-7-04. His evidence is un rebutted. There is no other evidence on the record to disbelieve the evidence of this witness. His evidence clearly shows that he was not in continuous service for 240 days during the twelve calendar months preceding the date of termination as required under Section 25(B)(2) of the Industrial Disputes Act, 1947 (in short the Act, 1947). Since his service is not continuous for one year under Section 25(B)(2) of the Act, 1947, there is no violation of the provision of Section 25-F of the Act, 1947. This issue is decided against the workman and in favour of the management.

7. Issue No. II

On the basis of the discussion made above, I find that the management is justified in terminating his service. The workman is not entitled to any relief. The reference is, accordingly, answered.

8. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2940.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सिविल एविएशन ट्रेनिंग कॉलेज बामरुली के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 9/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-11012/16/2001-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 24th August, 2012

S.O. 2940.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 9/2002) of the Central Government Industrial Tribunal/Labour Court, Kanpur, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s Civil Aviation Training College (Bmrauli) and their workman, which was received by the Central Government on 27-7-2012.

[No. L-11012/16/2001-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 09 of 2002

Between :

Sri Subhash Singh,
S/o Sri Daroga Singh,
Village Chirla Munjapta,
Post Ganja, Chial,
District Allahabad

Versus

The Principal,
Civil Aviation Training College,
Bmrauli,
Allahabad

AWARD

1. Central Government, Mol. vide notification no. L-11012/16/2001/IR(M) dated 6-8-2001 has referred the following dispute for adjudication to this tribunal :

2. "Whether the action of the management of Civil Aviation Training College, Allahabad in terminating the services of Sri Subhash Singh Son of Sri Daroga

with effect from 1-11-99 is justified ? If not to what relief the workman is entitled to ?

3. In the instant case after the exchange of pleadings between the parties, the claimant stopped putting appearance in the case. He even did not adduce his evidence. It therefore, appears that the claimant is not interested to prosecute his claim before this tribunal.

4. Considering the facts and circumstances of the case the reference is bound to be decided against the claimant for what of evidence and proof.

5. Reference is therefore decided in the above terms against the claimant.

RAM PARKASH, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2941.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स रामजीदास पुत्र रामरिछपाल लाईम स्टोन खदान मालिक कोटा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 17/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-28012/1/1992-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 24th August, 2012

S.O. 2941.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/1999) of the Central Government Industrial Tribunal/Labour Court, Kota, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s Ramjidas S/o Ramrichpal, Lime Stone Mine Owner, Kota and their workman, which was received by the Central Government on 27-7-2012.

[No. L-28012/1/1992-IR (M)]

JOHAN TOPNO, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण,
कोटा/केन्द्रीय/कोटा/राज./

पीठासीन अधिकारी-श्री प्रकाश चन्द्र पगारीया, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या./केन्द्रीय/17/1999

दिनांक स्थापित : 21-7-1999

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश सं. एल-28012/1/92-आई आर (मिस) दि. 14-1-93 एवं अग्रोषण पत्र 16-7-99

**निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) औद्योगिक विवाद
अधिनियम, 1947**

मध्य

उस्मान अली पुत्र सुभान अली
द्वारा क्षेत्रीय मंत्री, हिन्द मजदूर सभा,
बंगाली कालोनी, छावनी, कोटा ।

---प्रार्थी श्रमिक

एवं

रामजीदास पुत्र रामरिछपाल,
माईन आनर, लाईम स्टोन माईन्स, पीपाखेड़ी
मोड़क स्टेशन, कोटा ।

---अप्रार्थी नियोजक

प्रार्थी श्रमिक की ओर से : श्री पुरुषोत्तम दाधीच,
सह-प्रतिनिधि

अप्रार्थी नियोजक की ओर : श्री डी. सी. जैन
से प्रतिनिधि

अधिनिर्णय दिनांक : 27-6-2012

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने उक्त प्रासांगिक आदेश दि. 14-1-93 एवं अग्रेषण पत्र दि. 16-7-99 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जाएगा) की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :

"Whether the action of the management of Shri Ramji Das Modi, Morak Station, Distt. Kota in terminating the services of Shri Usman Ali S/o Shri Subhan Ali, driver at their Pipakheri Mine w.e.f. 10-4-91 is legal and justified? If not, to what relief the concerned workman is entitled to and from what date?"

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना/नोटिस जारी कर विधिवत रूप में अवगत करवाया गया ।

3. प्रार्थी श्रमिक की ओर से क्लेम स्टेटमेन्ट पेश किया गया जिसमें यह वर्णित किया गया कि प्रार्थी को प्रबन्धक, रामजीदास मोदी स्टोन कंपनी, मोड़क स्टेशन, कोटा द्वारा डम्पर ड्राइवर के पद पर दि. 1-11-90 को नियुक्त किया गया एवं उसने 10-6-91 को नौकरी से निकाल दिया गया । नौकरी से निकालने से पूर्व कोई वरिष्ठता सूची का प्रकाशन नहीं किया गया एवं ना ही धारा 25-एफ, जी, एच आदि के प्रावधानों की पालना की गयी । अतः प्रार्थी कर्मकार ने अपने क्लेम स्टेटमेन्ट के माध्यम से अप्रार्थी नियोजक से समस्त पिछले बकाया वेतन व परिलाभों सहित सेवा में बहाल किये जाने का अनुरोध दिलाये जाने की मांग की ।

4. इसका जवाब अप्रार्थी की ओर से पेश किया गया जिसमें यह वर्णित किया गया कि ना तो अप्रार्थी ने प्रार्थी को नौकरी से हटया एवं न ही कोई वेतन बकाया है । प्रार्थी लगातार अपने कार्य से अनुपस्थित चल रहा है । प्रार्थी को कार्य पर उपस्थित होने हेतु रजिस्टर्ड पत्र द्वारा सूचित भी किया गया एवं उसे प्राप्त भी हो गया फिर भी वह कार्य पर उपस्थित नहीं हुआ तथा प्रार्थी ने लगातार 240 दिन तक कार्य भी नहीं किया । अतः अपने जवाब के माध्यम से अप्रार्थी ने प्रार्थी के क्लेम स्टेटमेन्ट को खारिज किये जाने की प्रार्थना की ।

5. इसके पश्चात् साक्ष्य प्रार्थी में प्रार्थी उस्मानअली का स्वयं का शपथ-पत्र पेश किया गया, अप्रार्थी द्वारा उससे जिरह की गयी । इसके पश्चात् मामले में अप्रार्थी प्रतिनिधि ने दि. 18-5-2011 को एक प्रार्थना-पत्र इस आशय का पेश किया कि मामले में अप्रार्थी रामजीदास की दि. 12-11-2006 को मृत्यु हो चुकी है व उसके साथ में उसका मृत्यु प्रमाण-पत्र भी पेश किया गया, इसकी प्रति प्रार्थी प्रतिनिधि को दिलायी गयी ।

6. इस प्रकार अप्रार्थी की मृत्यु हुए करीबन 5½ वर्ष हो चुके हैं । न्यायालय में अप्रार्थी की मृत्यु की सूचना आने की जानकारी को भी एक वर्ष से ज्यादा का समय प्रार्थी को प्राप्त हो चुका है, परन्तु प्रार्थी द्वारा ना तो उसका कोई खण्डन किया गया है एवं ना ही मृत अप्रार्थी के कायम मुकाम को अभिलेख पर लिये जाने की कोई कार्यवाही की गयी है जबकि किसी भी मामले में किसी पक्षकार की वाद कार्यवाही के लम्बित रहने के दौरान मृत्यु होने पर मृत्यु से 90 दिन के अन्दर-अन्दर ऐसी कार्यवाही किया जाना अपेक्षित है । कदाचित इस मामले में यह भी मान लिया जावे कि अप्रार्थी की ओर से मृत्यु की सूचना इतने वर्षों तक नहीं दी गयी तो भी जब न्यायालय में अप्रार्थी की मृत्यु होने की सूचना दिये हुए भी एक वर्ष से ज्यादा का समय हो चुका है एवं प्रार्थी भी उस सूचना से अवगत हो चुका है तो भी इस अवधि में मृत अप्रार्थी के कायम मुकाम को अभिलेख पर लिये जाने बाबत कोई कार्यवाही नहीं किये जाने से अब और समय दिये जाने का कोई औचित्य नहीं है एवं अप्रार्थी की मृत्यु हो जाने व उसके कायम मुकाम अभिलेख पर नहीं होने से यह रेफ्रेन्स कानूनन चलने योग्य नहीं रहता है क्योंकि मृत व्यक्ति के विरुद्ध कोई अनुतोष का आदेश भी नहीं दिया जा सकता है ।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने प्रासांगिक आदेश क्र.एल-28012/1/92-आईआर (मिस) दि. 14/1/93 एवं अग्रेषण-पत्र दि. 16-7-99 के जरिये सम्प्रेषित निर्देश (रेफ्रेन्स) को इसी अनुरूप उत्तरित किया जाता है कि इस मामले में अप्रार्थी प्रबन्धक रामजीदास की मृत्यु करीबन 5½ वर्ष पूर्व हो जाने व आज दिन तक उसके किसी वारिसान को कायम मुकाम नहीं बनाये जाने से अब इस रेफ्रेन्स में मृत व्यक्ति के विरुद्ध कोई अनुतोष आदेश दिया जाना सम्भव नहीं होने से प्रार्थी कर्मकार कोई अनुतोष प्राप्त करने का अधिकारी नहीं है ।

प्रकाश चन्द्र पगारीया, न्यायाधीश

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2942.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स हाजी अब्दुल करीम पुत्र श्री पीर खान मालिक लाईम स्टोन माइन्स कोटा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 33/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-29012/29/2005-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 24th August, 2012

S.O. 2942.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2006) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s Haji Abdul Karim S/o Sh Peer Khan (Lime Stone, Mine Owner Kota) and their workman, which was received by the Central Government on 27-7-2012.

[No. L-29012/29/2005-IR (M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JAIPUR

PRESENT:

N. K. PUROHIT, Presiding Officer

I. D. 33/2006

Reference No. L-29012/29/2005-IR(M)

Dated : 28-2-2006

Shri Bajrang Singh
S/o Sh. Kalu Singh
Through Joint General Secretary
Hind Mazdoor Sabha
Bengali Colony Cantt., Kota (Raj.)

V/s

The Prop.,
M/s Haji Abdul Karim
S/o Sh. Peer Khan
Lime Stone Mine Owner,
Distt : Kookda, Kota (Raj.)

PRESENT:

For the applicant : Sh. Kapil Sharma

For the Non-applicant : Ex-party

AWARD

22-5-2012

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:

“क्या श्री बजरंग सिंह पुत्र श्री कालू सिंह ने मैसर्स, हाजी अब्दुल करीम पुत्र श्री पीर खान लाइम स्टोन माइन्स कूकडा जिला कोटा के मोडक स्थित कार्यालय में ऑफिस क्लर्क के पद पर दिनांक 9-3-1982 से 17-2-2003 के मध्य निरन्तर 240 दिन से अधिक सेवा प्रदान की थी? ‘यदि हां तो अप्रार्थी द्वारा श्री बजरंग सिंह पुत्र श्री कालू सिंह को सेवा से पृथक करने की कार्यवाही उचित एवं वैध है?’ यदि नहीं तो प्रार्थी किस अनुतोष तथा राहत का हकदार है।”

2. The workman in his claim statement has pleaded that he was appointed as Office Clerk by the non-applicant on 9-3-82 and he had worked continuously during period 9-3-82 to 17-2-03 and he had worked for more than 240 days. The workman has alleged that his services had been terminated on 18-2-03 without any notice or compensation in lieu of notice in violation of Section 25-F of the I.D. Act. He has further alleged that while terminating his services junior to him were retained in the job by non-applicant, therefore, his termination is also in violation of Section 25-G of the I.D. Act. The workman has prayed to reinstate him with all consequential benefits. He has also claimed an amount of Rs. 32690 as salary due for the period January, 02 to 17-2-03.

3. At the stage of reply to the claim statement, none appeared on behalf of the non-applicant, therefore, an order to proceed ex-party against the non-applicant was passed on 23-11-10 and case was posted for evidence of the workman.

4. Despite number of opportunities provided for evidence of the workman, he did not turn up for his evidence. Under these circumstances, the evidence of the workman was closed on 21-5-12.

5. Heard the learned representative on behalf of the workman and perused the record.

6. It is well settled that initial burden is on the workman to prove his case set forth in his claim statement. After filing claim statement the workman was given as many as nine opportunities to produce documents and evidence in support of his claim but he did not turn up and no oral or documentary evidence has been adduced.

by him to substantiate his claim and ultimately his evidence was closed on 21-5-12. It appears that the workman is not interested to contest the case further.

7. There is no material on record for adjudication of the reference under consideration on merits. Under these circumstances, "No Claim Award" is passed in this matter. The reference under adjudication is answered accordingly.

8. Award as above.

9. Let a copy of the award be sent to Central Government for publication u/s 17(1) of the I.D. Act.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2943.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स त्रावणकोर टिटैनियम प्रोडक्ट लिमिटेड तिरुवनन्तपुरम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/भ्रम न्यायालय, इरनाकुलम के पंचाट (संदर्भ संख्या 23/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-43011/1/2009-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 24th August, 2012

S.O. 2943.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2009) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s Travancore Titanium Products Ltd. (Thiruvananthapuram) and their workman, which was received by the Central Government on 27-7-2012.

[No. L-43011/1/2009-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT:

SHRI D. SREEVALLABHAN, B.SC., LL.B., Presiding Officer

(Friday the 29th day of June, 2012/8th Ashadam, 1934)

I. D. 23/2009

Union : The General Secretary,
Titanium Products Labour Union,
INTUC House, Kunnumpuram,
Thiruvananthapuram-695 001.

Management : The Managing Director,
Travancore Titanium Products Limited,
Post Box No. 1
Thiruvananthapuram-695 021.

This case coming up for final hearing on 29-6-2012 and this Tribunal-cum-Labour Court on the same day passed the following :

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) Government of India, Ministry of Labour has referred this industrial dispute to this Tribunal for adjudication as per Order No. L-43011/1/2009-IR(M) dated 29-6-2009.

2. The reference is :

"Whether the action of the management of M/s. Travancore Titanium Products, Trivandrum in altering the service conditions and redesignation of the post Charge Hand to Senior Process Operator is justified ? What relief the affected workmen are entitled to ?"

3. At the time of hearing of the case learned counsel for both sides submitted that there is chance for settlement and hence the case to be posted in the Lok Adalat. Thereby the case was taken up in the Lok Adalat. A full and final settlement was arrived at between the parties. Both parties jointly filed compromise in terms of the settlement. As the compromise is found to be acceptable an award can be passed in terms of the compromise.

In the result an award is passed in terms of the compromise and the compromise will form part of the award.

The award will come into force one month after its publication in the official gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 29th day of June, 2012.

D. SREEVALLABHAN, Presiding Officer

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

I. D. 23/2009

The matter was taken up in Lok Adalat and the parties agreed to settle the dispute on the following terms :

The petitioner, Titanium Products Labour Union agreed the redesignation of Charge hand Operator to Senior Process Operator.

It is mutually agreed that the job of 17 senior most Senior Process Operators shall not be interchangeable,

however, the job of Senior Process Operators other than the 17 as above shall be interchangeable with that of Process Operators as and when required as per the option submitted by them.

Dated the 29th day of June, 2012

Illigible

Sd/-

Union

(Titanium Products Labour Union)

Sd/-

Mediator

Illigible

Sd/-

Management

(Travancore Titanium Products Ltd.)

नई दिल्ली, 24 अगस्त, 2012

का.आ. 2944.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सतना माइनिंग कॉरपोरेशन सतना (एम. पी.) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 223/1989) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-29012/21/1989-आई आर (एम)]

जोहान तोपनो, अवर सचिव

New Delhi, the 24th August, 2012

S.O. 2944.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 223/1989) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s M. P. State Mining Corporation, Satna (M.P.) and their workman, which was received by the Central Government on 27-7-2012.

[No. L-29012/21/1989-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/223/89

Shri Mohd. Shakir Hasan, Presiding Officer

Shri Daduram,
S/o Shri Ram Vishwas,
Gram Post Jhakora,
Distt. Satna (MP)

... Workman

Versus

Assistant General Manager, (Khan),
M. P. State Mining Corporation,
Head Office,
Rajendranagar,
Satna (MP)

... Management

AWARD

Passed on this 26th day of June, 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-29012/21/89-IR (Vividh) dated 26-10-1989 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of the M.P. State Mining Corporation, Sub-office, Satna in terminating the services of Shri Daduram S/o Shri Ram Vishwas, Labourer w.e.f. 6-9-87 is justified. If not, what relief is the said workmen entitled to ?”

2. The case of the workman in short is that he was posted on the post of carrier from several years in Bauxite mine of M.P. State Mining Corporation. His service condition was governed under Certified Standing Orders. The workman became ill in the year 1987 and he took leave without pay from 23-7-1987 to 24-8-1987 and left for village home at Jhakhora where his son also fell ill. He sent application for extension of leave from 29-8-1987 to 1-9-1987 through U.P.C. but he did not receive any reply of the management. He again sent an application for further extension of leave from 1-9-1987 to 10-9-1987 with medical certificate. In the meantime he received a notice dated 5-9-1987 of the management on 9-9-1987. He appeared before the management on 11-9-1987 with medical certificate but he was not allowed to join and his service was treated as self terminated. It is stated that the service under clause 12(C) of the Certified Standing orders can only be terminated after giving opportunity to the workman but no enquiry was conducted nor any explanation was asked before termination of his service. It is stated that the workman be reinstated with full back wages.

3. The management appeared and filed written statement. The case of the management, inter alia, is that the workman was in the service of the management. He was habitual absentee without intimation and without sanction of leave. In January 1987 he was on 9 days attendance, in Feb 87 - 14 days, in March 87 - 22 days, in April 87 - 24 days, in May 87 - 21 days, in June 87 - 20 days in July 87 - 22 days and in August - nil days on attendance. It is denied that the workman sent any application with medical certificate for extension of leave at any time. It is true that the workman was noticed vide notice dated 5-9-87 which was received by him on 6-9-87 for immediate joining on duty but he did not obey the order of the management. As such his service was terminated by himself under clause 12(C) of the Certified Standing Orders.

It is submitted that the reference be answered in favour of the management.

4. The workman initially appeared and filed statement of claim. Thereafter he became absent and did not file any evidence inspite of sufficient opportunity granted to him. The then Tribunal proceeded the reference ex parte against the workman on 3-10-2005.

5. The management was directed to adduce evidence. Lastly the learned counsel for the management submitted that there is no evidence of the workman to prove the case and the workman is not raising the dispute by making him absence from the proceeding. It is stated that under the circumstance, the management is not inclined to lead any evidence. The evidence of the management was accordingly closed. This shows that there is no evidence on the record of either side and therefore this is a case of no evidence. Accordingly the reference is answered.

6. In the result, award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 24 अगस्त, 2012

क्र.आ. 2945.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स अतिकुरहमान पुत्र हाजी अब्बुल गफूर लाईम स्टोन खदान मालिक कोटा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 4/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2012 को प्राप्त हुआ था।

[सं. एल-29012/83/2003-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 24th August, 2012

S.O. 2945.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 4/2009) of the Central Government Industrial Tribunal/Labour Court, Kota now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s Atiqurrehman S/o Haji Abbul Gafur, Lime Stone Mine Owner Kota and their workman, which was received by the Central Government on 27-7-2012.

[No. L-29012/83/2003-IR (M)]
JOHAN TOPNO, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण, कोटा, केन्द्रीय,
कोटा, राज.

पीठासीन अधिकारी

श्री प्रकाश चन्द्र पगारीया, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या./केन्द्रीय/4/09

दिनांक स्थापित : 7-1-09

प्रसंग : भारत सरकार श्रम मंत्रालय, नई दिल्ली के आदेश सं.
एल-29012/83/2003 (आई आर (एम) दि. 22-9-08

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) औद्योगिक विवाद
अधिनियम, 1947

मध्य

जनरल सेक्रेटरी, राष्ट्रीय मजदूर संघ (इन्टक)

रामगंज मण्डी जिला कोटा, राज.

... प्रार्थीगण श्रमिक
यूनियन

एवं

अतिकुरहमान पुत्र हाजी अब्बुल गफूर,
लाईम स्टोन खदान मालिक खान पीपलखेड़ी
मुकाम संकेत, जिला कोटा

... अप्रार्थी नियोजक

उपस्थित

प्रार्थीगण श्रमिक यूनियन की ओर से : कोई उपस्थित नहीं
अप्रार्थी नियोजक की ओर से प्रतिनिधि : श्री ललित नागर

अधिनिर्णय दिनांक : 19-6-2012

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपनी उक्त प्रासंगिक अधिसूचना/आदेश दि. 22-9-08 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :

"Whether the demand of union for grant of 20% Bonus for the year 2006-2007 to the employees working in the establishment is legal and just? What relief the workmen are entitled to?"

2. निर्देश (रेफ्रेन्स) न्यायाधिकरण में प्राप्त होने पर पक्षकारों को नोटिस जारी किये गये। रेफ्रेन्स दि. 7-1-09 को दर्ज रजिस्टर किया गया एवं आगामी सुनवाई तिथि 6-7-09 नियत की गयी एवं इसी बीच में प्रार्थीगण श्रमिक यूनियन की ओर से दि. 19-3-09 को अपना क्लेम स्टेटमेंट पेश किया गया जो आदेशिका दि. 6-7-09 के अनुसार रिकार्ड पर लिया गया।

3. इस मामले में आदेशिकाओं के अवलोकन से प्रकट होता है कि रेफ्रेन्स दर्ज होने के बाद से आज तक जितनी भी सुनवाई तिथियां नियत की गयी हैं, उनमें से किसी भी सुनवाई तिथि पर प्रार्थीगण या उनकी ओर से कोई उपस्थित नहीं हुआ। अतः जब प्रार्थीगण की ओर से कोई उपस्थित ही नहीं हो रहा है एवं ना ही मामले की पैरवी की जा रही है तो न्यायाधिकरण स्वप्रेरणा से ऐसे मामले को नहीं चला सकता है। न्यायाधिकरण तो मामले के विचारण में आगे तभी बढ़ सकता है जबकि पक्षकारान उपस्थित आवें एवं विशेष रूप से यदि अप्रार्थी की ओर से कोई उपस्थित नहीं भी आता है तो भी प्रार्थी कर्मकार जिसकी पहल पर रेफ्रेन्स हुआ है, उसको तो कम से कम आकर अपना मामला अन्तिम परिणति तक पहुंचाने के लिए उपस्थित होकर आवश्यक कार्यवाही करनी चाहिए। परन्तु हस्तगत मामले में तो रेफ्रेन्स दर्ज होने से लेकर आज दिन तक प्रार्थीगण की ओर से कोई उपस्थित नहीं आया, केवल बीच में दि. 19-3-09 को जिस दिन कि सुनवाई तिथि नियत नहीं थी प्रार्थीगण श्रमिक यूनियन द्वारा क्लेम स्टेटमेंट पेश कर दिया गया एवं उसके बाद प्रार्थी-यूनियन की ओर से कोई इस मामले को आगे चलाने के लिए उपस्थित नहीं हुआ। अतः ऐसी परिस्थिति में जब प्रार्थी पक्ष ही इस मामले को चलाने में कोई रुचि नहीं ले रहा है एवं उपस्थित नहीं आ रहा है तो न्यायाधिकरण स्वप्रेरणा से इस मामले को अनिश्चितकाल तक नहीं चला सकता है एवं रेफ्रेन्स अदम हाजिरी व अदम पैरवी में निस्तारित होने योग्य है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने प्रासांगिक आदेश क्र. 29012/83/2008 [आई आर(एम)] दि. 22-9-08 के जरिये सम्प्रेषित निर्देश (रेफ्रेन्स) को इसी प्रकार उत्तरित किया जाता है कि इस मामले में प्रार्थीगण यूनियन या प्रार्थीगण की ओर से मामले को चलाने के लिए किसी के भी उपस्थित नहीं आने से प्रकरण अदम हाजिरी व अदम पैरवी में निस्तारित किया जाकर प्रार्थीगण कोई अनुतोष प्राप्त करने के अधिकारी नहीं हैं।

प्रकाश चन्द्र पगारीया, न्यायाधीश

नई दिल्ली, 27 अगस्त, 2012

क्र.आ. 2946.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-2 के पंचाट (संदर्भ संख्या 5/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2012 को प्राप्त हुआ था।

[सं. एल-12011/74/2011-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 27th August, 2012

S.O. 2946.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 5/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai now as shown in the

Annexure, in the Industrial Dispute between the management of State Bank of India, and their workman, which was received by the Central Government on 27-8-2012.

[No. L-12011/74/2011-IR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT:

K. B. KATAKE, Presiding Officer

Reference No. CGIT-2/5 of 2012

Employers in Relation to the Management of State
Bank of India

The Dy. General Manager
(Business & Operations),
Zone-I, State Bank of India,
Madhuli Building, 2nd Floor,
H/2, Shivasagar Estate,
Dr. Annie Besant Road,
Worli, Mumbai-400 018

And

Their Workman

The General Secretary,
SBI Staff union "Synergy" Building,
'G' Block, Plot No. C/6, Ground Floor,
Bandra Kurla Complex,
Bandra (E), Mumbai-400 051.

Appearances:

For the Employer : Mr. M.G. Nadkarni,
Advocate

For the Workman : Mr. J.D. Shringarpure,
Representative.

Mumbai, dated the 6th July, 2012

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-12011/74/2011-IR (B-I), dated 31-1-2012 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of State Bank of India, Zone-I, Mumbai in imposing the punishment of "Removal from services with superannuation benefits etc." vide order dated 26-3-2010 on Shri Chandrakant J. Patel, Special

Assistant is legal and justified ? To what relief the workman/union is entitled ?”

2. After receipt of the order of reference from Ministry, notices were served on both the parties vide Nos. 3 & 4. Today, General Secretary of the union Shri J.P. Shringarpure instead of filing statement of claim, filed application Ex-6 stating that the concerned workman expired on 25-3-2012 and requested to treated the dispute as withdrawn. Thus the order :

ORDER

Reference is dismissed as withdrawn.

K.B. KATAKE, Presiding Officer

Dated : 6th July, 2012

नई दिल्ली, 27 अगस्त, 2012

का.आ. 2947.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (आईटी संख्या 213/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2012 को प्राप्त हुआ था।

[सं. एल-22012/463/1999-आई आर (सी-11)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 27th August, 2012

S.O. 2947.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 213/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 27-8-2012.

[No. L-22012/463/1999-IR (C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/213/2000

Dated : 7-8-2012

Party No. 1 : The Sub Area Manager,
Hindustan Lalpeth U/G Sub Area of
WCL, PO : Lalpeth,
Distt. Chandrapur (MS)

Versus

Party No. 2 : The President/Secretary,
National Colliery Workers Congress,
Dr. Ambedkar Ward,
PO & Tah. Ballarpur,
Distt. Chandrapur.

AWARD

(Dated : 7th August, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their workman, Shri Mallesh Kamtam, for adjudication, as per letter No. L-22012/463/99-IR (C-II) dated 28-6-2000, with the following schedule :

"Whether the action of the management namely Sub Area Manager, Hindustan Lalpeth U/G Sub Area of WCL PO : Lalpeth, Distt. Chandrapur in dismissing Shri Mallesh Ashalu Kamtam, Driller, Hindustan Lalpeth no. 1 on 15-4-1990 is legal & justified? If not to what relief the workman is entitled and from which date? What other directions are necessary in the matter ?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, "National Colliery workers congress", ("the union" in short), filed the statement of claim on behalf of the workman, Shri Mallesh Kamtam, ("the workman" in short) and the management of WCL ("Party No. 1" in short) filed its written statement.

The case of the workman as presented by the union in the statement of claim is that it (the union) is a registered trade union and party no. 1 is a government coal company and falls within the meaning of "State" under article 12 of the Constitution of India and the workman was in employment of party No. 1 since 1975 and he was a permanent workman and had put in unblemished service of 15 years and the workman was appointed as a general mazdoor w.e.f. 14-2-1975 and by virtue of his loyal and efficient services, he was offered with the responsibility of driller and thereafter sanitary supervisor, but on false, fabricated and concocted allegations, a charge sheet dated 15-3-1990 was submitted against the workman by the Sub Area Manager, Hindustan Lalpeth Sub Area, even though he was not competent to issue the charge sheet and the allegation against that workman was that, "on 14-3-1990 at 11.45 PM, he went to Nandgaon incline's 'B' type quarters in a drunken state and without any reason, he hurled filthy abuses against the J.E.T.s, namely, Shri Talawkar, Shri Kolhe and Shri Chiddarwar and slapped Shri Talawkar and threatened to kill them and put hurdle in their duties and the workman was charge sheeted under clauses 13(B) 5,

13(B)7, 13(B) 16 and 13(B)32 of the Standing Orders and he was suspended pending enquiry and the workman submitted his reply to the charge sheet vide his letter dated 17-3-1990, denying the allegations made against him, specifically mentioning there is that the alleged incident occurred in colony and not in the premises of colliery/mine, during duty hours and not arisen in the course of and out of his employment or otherwise and therefore, the sub Area Manager had no jurisdiction to issue the charge sheet and the mere allegations hurling abuses and slapping Shri Talawkar did not amount of commission of any offence or crime, in absence of any intention or motive and the workman was not a fool or mad to abuse, or slap any person and the Sub Area Manager in collusion with the three JETs moved the policy machinery against the workman to suppress the truth and to harass and torture him physically, mentally and financially and in addition to the charge sheet, party no. 1 also moved the police to take action, the workman and police instituted a case under Section 85(1) of the Bombay Prohibition Act, 1949 against the workman bearing no summary case no. 3247/90 in the court of the Chief Judicial Magistrate, Chandrapur.

The further case of the union in the Statement of claim is that the sub-Area Manager, vide letter dated 18/19-3-1990 constituted a domestic enquiry and appointed one Shri V. Ganpat as the enquiry officer and the enquiry officer fixed the enquiry on 21-3-1990 at 5.30 P.M., but intimated him about the date of enquiry vide his letter dated 19/20-3-1990, without giving him sufficient time for the same and inspite of the same, he attended the enquiry at the time and place of the enquiry, but the enquiry officer himself was not present and thereafter, he went to his native village in connection with the marriage of his nephew and he was not present at Chandrapur between the period from 24-3-1990 to 3-4-1990 and on 12-4-1990, he gave an application to the Manager Lalpeth Mine No. 1 to mark his presence from 24-3-1990 to 3-4-1990 and after his return from his native village, the workman received the notice dated 24-3-1990 of the enquiry officer and came to know that the enquiry was fixed to 28-3-1990 at 5 P.M. in the office of the enquiry officer, so he requested the enquiry officer to fix up the enquiry to another date and to allow him to defend himself, but his such appeal went in vain and the enquiry was conducted in a haste, in camera and ex parte and in complete violation of the principles of natural justice and the workman was dismissed from services by the Sub Area Manager vide letter dated 15-4-1990 with immediate effect and the workman was not given full opportunity to defend himself and he was not supplied with copy of the enquiry proceeding and report of the enquiry officer.

It is also pleaded by the union that in Summons case no. 3247 of 1990, the workman was acquitted on 26-11-1993 by the Chief Judicial Magistrate and the union, "RKKMS" took up the cause of the workman and raised

the issue before the General Manager, WCL, Chandrapur vide letter dated 20-9-1993, but the matter was not considered by the management and though the said union vide letters dated 18-10-1993 and 28-10-1993 took up the matter again, the management did not consider the case of the workman for his reinstatement and Shri Naresh Pugulia, Shri Shanta Ram Potdukhe and Shri Hansraj Ahir, all members of the Parliament took up the case of the workman, but the management did not consider the case of the workman and the workman was suspended pending the enquiry and was directed to report at 9.00 A.M. daily to the Register Keeper for getting his attendance marked to facilitate the management to send communication and as the workman was not getting his attendance marked between 24-3-1990 to 3-4-1990, the absence of the workman from the headquarters was known to the management and management took up the opportunity to hold the enquiry in his absence, with a view to victimize him and the Chief General Manager, WCL, Chandrapur had directed the Sub-Area Manager, who submitted the charge sheet against the workman to take stern action against the workman and to teach him a lesson once for all and it is obvious that under such instruction, camera enquiry was conducted against the workman, where principles of natural justice was violated and the workman was not given full opportunity to defend himself and the order of dismissal of the workman is illegal and the workman is entitled for reinstatement in service with continuity, full back wages and other consequential benefits.

3. The party no. 1 in their written statement have pleaded inter alia that the union has made baseless allegations and the workman is a person, who did not have a clean record and he was in habit of quarrelling with the management in drunken state and the statement of claim as filed is nothing but an attempt to gain sympathy of the court and facts and law have been misquoted in the statement of claim by the union and the workman admitted the charges levelled against him, in is explanation to the charge sheet and as such, he is debarred from challenging the action and punishment imposed on him for the misconduct and the conduct of the workman was unlawful and deliberate, particularly considering his past conduct and sufficient chances were given to the workman to defend himself in the enquiry, but as he remained deliberately absent, the enquiry was fixed to 24-3-1990 and the said date of the enquiry was duly intimated to the workman vide letter no. 122 dated 22-3-1990, but still then, the workman again remained absent and even did not give any intimation about his remaining absent and inspite of the same, the enquiry officer adjourned the enquiry to 28-3-1990 and the workman was duly intimated about the same vide letter no. 127 dated 24-3-1990 and an advertisement was also published in the daily newspaper, "Mahavidharbha" on 25-3-1990 to that effect and inspite of the same, on 28-3-1990, the workman remained absent,

so the enquiry was proceed ex parte and the enquiry officer submitted his report to the Sub Area Manager as per law.

The further case of the party no. 1 is that the union is not a recognized union by the manager and as such, it has no locus to contest the case on behalf, of the workman and the promotions given to the workman are in the routine course of his duties and not for his efficient service as alleged and in spite of the special direction to make daily attendance, the workman deliberately avoided to mark his daily attendance for the period from 24-3-1990 to 12-4-1990 and thereafter willfully made an application to cover his mis-deeds and the word "premises" includes the residential premises and he obstructed the persons in performing their official duties, amounting to misconduct and as such, by stating that the incident occurred in the colony does not absolve the workman from the punishment prescribed and the Sub Area Manager is the competent authority to issue the charge sheet and the act committed by the workman also amounted to criminal charge and as such, the police, complaint was rightly filed and the charges were proved in the enquiry and the enquiry was conducted by giving full opportunity to the workman and the workman tried to pressurize the management for unlawful gains by getting the matter politicized and the management had never tried to victimize the workman and the punishment imposed against the workman is in order and the workman is not entitled for any relief.

4. As this is a case of dismissal of the workman from services after holding of a departmental enquiry, the validity of the enquiry, was taken up as a preliminary issue for consideration and by order dated 6-12-2007, the departmental enquiry was held to be legal, proper and in accordance with the principles of natural justice.

5. During the course of argument, it was submitted by the learned advocate for the union that as the enquiry was conducted in contravention of the mandatory provisions of the relevant standing orders, the enquiry was vitiated and as such, the order of dismissal is not justified and it is already held by the Hon'ble Apex Court that the Tribunal has the power to avert to all points raised before it and to differ from the findings of the enquiry officer, if a proper case is made out and subsistence allowance was not paid to the workman, which vitiated the ex parte enquiry held against him and the entire action taken by the disciplinary authority. It was further submitted by the learned advocate for the union that the charges levelled against the workman were illegal, as the alleged occurrence of abuse and assault were not committed inside any mine and as such, the allegations made against the workman cannot be said to be commission of any misconduct and the enquiry officer was not fair and in spite of knowing the definition of "Mine" and the specific denial of the workman in his show cause that the alleged incident did not occur inside any mine,

the enquiry officer held the workman guilty of the charges, which shows his biasness and neither in the enquiry proceeding nor in the enquiry report anything was mentioned about the reply submitted by the workman, which clearly shows evaluation of evidence was not at all done by the enquiry officer and therefore, the report of the enquiry officer is prejudicial, vague and against the principles of natural justice.

It was further argued by the learned advocate for the union that the enquiry officer did not give sufficient time to the workman to take part in the departmental enquiry and notices were not issued as per law and there was violation of the principles of natural justice and the main witness, Shri Talwakar, the person, who was alleged to be assaulted was not examined, which clearly shows the biasness of the enquiry officer and without evidence, the enquiry officer held the workman guilty of the charges and the order of dismissal was not approved by the competent authority and as such, the order is illegal and as the appellate authority acted as the competent authority, the workman lost the scope of appeal and as such, the enquiry and punishment imposed there on were to be held illegal and as both the departmental enquiry and the criminal case were based on the same set of facts and the workman was acquitted by the criminal court, the findings recorded against him in the ex parte disciplinary enquiry cannot be sustained and the entire action against the workman was preplanned, motivated and decided by the appellate authority himself, before the enquiry was ordered, which is clear from the document, W-15 and the findings of the enquiry officer are perverse and the punishment imposed is shockingly disproportionate and the workman is entitled for reinstatement in service with continuity and full back wages.

In support of such contentions, reliance was placed by the learned advocate for the union on the decisions reported in 1999(3) SCC 679 (Capt. M Paul Anthony Vs. Bharat Gold Mines Ltd.), AIR 1984 SC-505 M/s. Glaxo Laboratories Vs. Presiding Officer, Labour Court Meerut, AIR 2001 SC-343 (State of Punjab Vs. V.K. Khanna), SCLJ Vol. 5-138 (Delhi Cloth & General Mills Vs. Tejvir Singh), AIR 1961, SC-1159 [The Bata Shoes Co(P) Ltd. Vs. D.N. Ganguly] (1999) 7 SCC-739 (Yoginath W. Bagde Vs. State of Rajasthan), AIR 1972 SC-2535 (State of Assam Vs. Mohan Chandra Kalita), 2001 III CLR-930 (Anil R. Joshi Vs. Air India Ltd). 1983 (2) SLR-645 (Sukinder Singh Vs. The State of Punjab), 1970 II LLJ-1 (The management of Travancore Titanium Products Ltd. Vs. Their Workman), 2010(1)Mh. L.J.-587 (Shriram V. Deshpande Vs. Presiding Officer), (1973) 1 SCC-656 (Ghanshyam Das Vs. State of MP), 2009 LAB IC (Noc) 828 (MAD) (J. Prasad Vs. Board of Directors), 1995 (70) FLR-817 (SC) (Chairman and Managing Director, UCO Bank), AIR 2006 SC-2120 (G.M. Tank Vs. State of Gujarat), AIR 1973 SC-2650 (Western India Match Co. Ltd. Vs. Workman), AIR 2010 SC-671 (Sri

Jeyaram Education Trust & Others Vs. A.G. Syed Mohideen), 2006 LAB IC-1527 (H.M. Awasthy Vs. Union of India), 2001 III CLR 489 (K. Meerabai Vs. Chairman-cum-Managing Director), and 2012 I CLR-842 (Pradeep Kumar Banarjee Vs. Airport Authority).

So, keeping in view the principles enunciated by the Hon'ble Courts in the decisions cited by the learned advocate for the union, the present case in hand is now to be considered.

6. On the other hand, it was submitted by the learned advocate for the party No. 1 that as per order dated 6-2-2007, it has already been held that the departmental enquiry conducted against the workman is legal, proper and in accordance with the principles of natural justice and therefore, the submissions made in regard to the legality and fairness of the enquiry are not required to be considered again. It was further submitted there was no illegality in leveling the charges against the workman and the charges were proved by adducing sufficient evidence and the enquiry officer after assessing the evidence on record rightly concluded the workman to be guilty of the charges excluding clause-13(B) 7 of the Standing Orders and in support of his findings the enquiry officer has assigned cogent reasons and as such, the findings cannot be said to be perverse and serious misconducts have been proved against the workman in a properly conducted departmental enquiry, hence the punishment of dismissal from services imposed against the workman cannot be said to be shockingly disproportionate and as such, there is no scope for interference in the matter of punishment by the Tribunal and the citations filed on behalf of the union are not all applicable to the present case as the facts and circumstances of the present case, and the cases referred in the decisions are quite different and the workman is not entitled to any relief.

7. Before delving into the merit of the matter, it is to be mentioned here that while passing orders on the validity of the departmental enquiry, the issues raised by the learned advocate for the union in respect of the competency of submission of charge sheet by the Sub-Area Manager, leveling of the charges under clauses 13(B) 5, 13(B) 7, 13(B) 16 and 13(B) 32 of the Standing Orders and proceeding with the departmental enquiry and imposing of punishment against the workman in the same inspite of the initiation of the criminal case, improper service of notice of the enquiry on the workman and non-examination of Mr. Talwarkar in the departmental enquiry were already considered. Hence, there is no need to reconsider the same.

8. The first contention raised by the learned advocate for the union is that the leveling of the charges under clauses 13(B)5, 13(B)7, 13(B) 16 and 13(B)32 is illegal and as such, the entire enquiry and the punishment imposed basing on such enquiry is also illegal. It was further

submitted that the alleged incident did not take place in a mine or in the premises of a Mine and at the time of the alleged incident, neither the workman was on duty nor the persons alleged to be assaulted and abused were on duty and as such, it cannot be said that any misconduct was committed by the workman and as no misconduct was committed by the workman, there was no question of conducting any departmental enquiry or imposition of punishment against the workman. However, I do not find any merit in the contentions raised by the learned advocate for the union in this regard. From the relevant standing orders, it is found that clause 13 of the said standing orders deals with "disciplinary action for misconducts" and clause 13(B) defines the acts and omissions which are to be treated as misconducts. Clause 13(B)5 says that "drunkenness, riotous or disorderly behavior, assault or quarrel or any act subversive of discipline in the premises" by a workman is a misconduct. Likewise, clauses 13(B)7, 13(B) 16 and 13(B) 32 define "habitual indiscipline", "threatening, abusing or assaulting any person in the employment or in the management of the company" and "disturbing other workmen on duty" respectively as misconducts. In the relevant clauses, there is no mention about commission of such misconduct either in a mine or in a mine premises. No doubt, in clause 13(B) 5 of the word "premises" is there, but there is no mention that the premises must be a mine premises. It is found that the alleged incident having connection and bearing with the employment of the workman and the persons alleged to be assaulted and abused and as the alleged incident took place in the colliery premises, the alleged action of the workman is held to be misconduct within the meaning of the standing orders and the levelling of the charges under the relevant standing orders cannot be said to be illegal.

9. The next contention raised by the learned advocate for the union was that though the workman was suspended no subsistence allowance was paid to him and the non-payment of subsistence allowance vitiates the entire enquiry. It is to be mention here that such a plea was not taken in the statement of claim. In the rejoinder, such fact was mentioned by the union. However, there is nothing on record to show that due to non-payment of subsistence allowance, the workman was prejudiced in defending himself in the departmental enquiry. Hence, there is no force in the submission made by the learned advocate for the union that due to non-payment of the subsistence allowance the entire enquiry was illegal.

10. The next contention raised by the learned advocate for the union was that the departmental enquiry and the criminal case instituted against the workman were based on identical and similar set of facts and evidence and as the workman was acquitted by the criminal court honourably, the contrary findings in the departmental enquiry are unfair and oppressive and the dismissal order

is liable to be set aside. In support of such contention, reliance was placed by the learned advocate for the union on the decision reported in AIR 2006 SC 2129 (Supra). In the above decision, the Hon'ble Apex Court have referred the decision reported in 2005(7) SCC 764 [Ajit Kumar Nag Vs. General Manager (PJ), Indian Oil Corporation Ltd.] in which it has been held by the Hon'ble Apex Court that :

“As far as acquittal of the appellant by a criminal court is concerned, the said order does not preclude the corporation from taking an action if it is otherwise permissible. Acquittal by a criminal court would not debar an employer from exercising power in accordance with Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object of a criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused ‘beyond reasonable doubt’, he cannot be convicted by a court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of ‘preponderance of probability’. Acquittal of the appellant by a judicial Magistrate, therefore, does not ipso facto absolve him from the liability under the disciplinary jurisdiction of the corporation. Therefore, the contention of the appellant that since he was acquitted by a criminal court, the impugned order dismissing him from service deserves to be quashed and set aside, cannot be upheld.”

On perusal of the documents including the judgment of the criminal court, it is found that the charges in the criminal case and the charges in the departmental enquiry against the workman were not the same and the witnesses examined and evidence adduced in the departmental enquiry were not the same as in the criminal case.

In view of the principles enunciated by the Hon'ble Apex Court and the facts mentioned above,

it can be said that, there is no force in the contention in the submission made by the learned advocate for the union on that score.

11. Perused the records of the enquiry proceedings and found that the findings of the enquiry officer are based on the evidence on record. Though four charges were levelled against the workman, the enquiry officer found the workman not to be guilty of the charge under clause 13(B)7 of the standing orders. The enquiry officer has not based his findings on any extraneous materials. This is also not a case of no evidence. Hence, the findings of the enquiry officer cannot be said to be perverse.

12. The disciplinary authority has passed the order of dismissal of the workman after obtaining due permission from the competent authority as per rules. It is not a case that the appellant authority had exercised the power of the disciplinary authority, depriving the workman of his right of appeal.

13. It is well settled that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the enquiry officer or competent authority where they are not arbitrary or utterly perverse. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice, what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the enquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.

14. In view of the discussion made above and the materials on record, with respect, I am of the view that the decisions cited by the learned advocate for the union have no application to the present case in hand.

15. In this case grave misconducts have been proved against the workman in a properly conducted departmental enquiry. The penalty imposed against the workman is not shockingly disproportionate to the misconduct proved against him. The punishment is based on evidence and is not arbitrary or mala fide or perverse. Hence, there is no scope to interfere with the punishment. Hence; it is ordered :

ORDER

The action of the management namely Sub Area Manager, Hindustan Lalpeth U/G Sub Area of WCL

PO : Lalpeth, Distt. Chandrapur in dismissing Shri Mallesh Ashalu Karntam, Driller, Hindustan Lalpeth No. 1 on 15-4-1990 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

क.अ. 2948.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संघर्ष नियोजकों और उनके कार्यकर्ताओं के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 156/2000) को प्रकटित करती है, जो केन्द्रीय सरकार को 27-8-2012 को प्राप्त हुआ था।

[सं. एल-22012/256/1997-आई आर (सी-II)]

बी. एम. पटनायक, अनुपाग अधिकारी

New Delhi, the 27th August, 2012

S.O. 2948.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 156/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 27-8-2012.

[No. L-22012/256/1997-IR (C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/156/2000

Shri Mohd. Shakir Hasan, Presiding Officer

Branch Secretary,
Samyukta Khadan Mazdoor Sangh (AITUC),
Branch Banki Colliery,
P.O. Banki Mongra,
Distt. Bilaspur (MP) ... Workman

Versus

Deputy General Manager,
SECL, Banki Colliery,
P.O. Banki Mongra,
Distt. Bilaspur (MP) ... Management

AWARD

Passed on the 8th day of August, 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/256/97-IR(C-II) dated 25-8-2000

has referred the following dispute for adjudication by this tribunal :

"Whether the action of the management of Banki Colliery of M/s. South Eastern Coalfields Limited in not rectifying the date of birth of Shri Nandlal is legal and justified? If not, to what relief the workman is entitled?"

2. The case of the Union/Workman in short is that the workman Late Nandlal was initially appointed on 2-1-1967 under the National Coalfields Development Corporation Ltd. (in short NCDC Ltd.). His date of birth was recorded as 12-7-1951 in the record of NCDC Ltd. After nationalization scheme, the NCDC was taken by the Coal India Ltd. and the services of the workman was transferred to South Eastern Coalfields Ltd. (in short SECL). It is stated that in the year 1987, the service excerpt was issued to all employees to provide date of birth and other information. His date of birth was wrongly mentioned as 1-1-1941. As such the workman made an objection that his date of birth was wrongly shown as his correct date of birth was 12-7-1951. His case was referred to Age Determination Committee in the year 1988. When the workman appeared before the said committee, he was directed to furnish evidence in respect of his age. The workman was not examined by any Medical practitioner as laid down in Implementation Instruction No. 76. The constitution of the said committee was only a formality to justify the action of the management. The workman gave representations and also raised dispute through the Union. The workman was again called by the Age Determination Committee in its meeting dated 26-6-94. He appeared and found that no Medical Officer was present to examine him. The workman was active member of the Union and therefore the management had not changed his date of birth to victimize the workman. It is submitted that the reference be answered in favour of the workman.

3. The management appeared and filed Written Statement to contest the reference. The case of the management, inter alia, is that admittedly he was initially appointed on 2-1-1967 by the NCDC Ltd. where his service record was maintained and his date of birth was recorded as 1-1-1941. The workman had declared his age as 1-1-1941 at the time of initial appointment and his date of birth was recorded in the statutory record in Form B. As per the guidelines of I.I. No. 76 the management issued service excerpts to the workman whose raised objection for the first time about his age as 12-7-1951. Accordingly the case was referred to the Age Determination Committee (in short ADC). The ADC after careful examination of the record decided the dispute of age as 1-1-1991 and communicated the same. The workman again approached the management but after further examination the ADC did not find any merit in his claim and communicated the decision vide letter No. 6167 dated 5-10-1994. The management issued

notice of retirement intimating him the date of superannuation vide letter dated 6-7-2000. The workman retired on 1-1-2001. It is submitted that the workman is not entitled to any relief and the action of the management is legal and justified?

4. During the pendency of the reference, the workman died on 27-1-2009. Thereafter the legal heirs are substituted in his place vide order dated 13-4-2010.

5. On the basis of the pleadings of the parties, the following issues are framed for adjudication.

(I) Whether the action of the management in not rectifying the date of birth Shri Nandlal is legal and justified?

(II) To what relief the workman is entitled?

6. Issue No. I

The workman Nandlal is examined in the case. He has stated that he was appointed initially on 2-1-1967 under NCDC Ltd. and his date of birth was recorded as 12-7-1951 by the management. The management has filed the service register of the workman which was prepared by the NCDC Ltd. at the time of initial appointment and is marked as Exhibit M/2. The said Service Register shows that his age was recorded as 1-1-1941 instead of 12-7-1951. His evidence is contradictory to the documentary evidence. He has further stated that the school transfer certificate was issued on 29-7-65 in which the date of birth was indicated as 12-7-1951. He has further stated that the said transfer certificate was submitted by him at the time of initial appointment which was returned by the management after perusing the same. The original transfer certificate is not filed by the workman though it shows that it was in his possession. However a photocopy is filed which is not proved but the same photocopy shows that it was issued on 29-7-1975 much after the initial appointment. This itself shows that the evidence of the workman is not reliable on the point of age. Moreover I.I. No. 76 shows that the transfer certificate is not included as an authentic document to rely on age.

7. On the other hand, the management has adduced oral and documentary evidence in the case. Exhibit M/1 is the Form B of NCDC Ltd. which shows that his date of birth was recorded in the Form B register as 1-1-1941. Exhibit M/1(A) is Form B of SECL which shows that his date of birth was recorded as 1-1-1941. Exhibit M/2 is the Service Register of the workman of NCDC Ltd. This register also shows that at the time of initial appointment, his age was recorded as 1-1-1941.

8. Exhibit M/3 is the Service Excerpt of the workman. This is filed to show that the workman raised dispute of his age for the first time in 1987 when excerpt was served

on him. Exhibit M/4 is the office order dated 25-11-89. This is filed to show that the workman represented for correction of his age and the same was referred to ADC for determination of date of birth and the conclusion arrived by the committee in respect of date of birth which was circulated to the employees. The name of the workman appears at Sl. No. 3. It shows that the ADC decided his age as 1-1-1941 which was recorded in all the records of the management. Exhibit M/5 is the notice of the date of retirement by the management. Exhibit M/6 is the superannuation letter. Thus the documentary evidence clearly establishes that his date of birth was 1-1-1941 as recorded in all the records of the management. Moreover it looks probable also because in case if the date of birth i.e. 12-7-1951 is to be deemed to be correct then at the time of initial appointment, his age would be about 16 years which is against the Mines Act, 1952.

9. The management has also examined one witness. The Management witness Shri Ashish Adhikari is working as Personnel Manager in Korba Area of SECL. He has supported the case of the management. He has stated that date of birth of the workman was recorded as 1-1-1941 which he had declared and was recorded in Form B register by NCDC. This fact also corroborates from the documentary evidence filed by the management. He has further stated that the workman was hardly 16 years on the basis of the contention of the workman at the time initial appointment whereas under Mines Act, no person can be employed below the age of 18 years. This aspect also shows that the contention of the workman of his age is not acceptable. This witness has further stated that the ADC had decided the dispute by declaring the age of the workman as 1-1-1941. Thus it is clear from the oral and documentary evidence that the action of the management is legal and justified in considering the date of birth of the workman as 1-1-1941. This issue is decided against the workman and in favour of the management.

10. Issue No. II :

On the basis of the discussion made above, I find that the workman is not entitled to any relief. Accordingly the reference is answered.

11. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

का.आ. 2949.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (आई डी संख्या 72/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2012 को प्राप्त हुआ था।

[सं. एल-22012/418/1998-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 27th August, 2012

S.O. 2949.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 72/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of ECL, and their workman, which was received by the Central Government on 27-8-2012.

[No. L-22012/418/1998-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 72 of 1999

PARTIES:

The General Secretary, UCMU (INTUC), Ukhra (W.B.)

Vs.

The Agent, Parascole Colliery, ECL, Burdwan (W.B.)

REPRESENTATIVES:

For the Management : Sri P. K. Das,
Ld. Advocate

For the Union (Workman) : None

Industry : Coal State : West Bengal

Dated : 25-7-2012

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Govt. of India through the Ministry of Labour vide its letter No. L-22012/418/98-IR (CM-II) dated 7-7-1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Parascole Colliery of M/s. ECL in fixation of wages of Sh. Sahdeo Goura, Underground Trammer at the time of conversion from piece rate to Time rate during 1996 is legal and justified? If not, to what relief is the workman entitled?”

Having received the Order of Letter No. L-22012/418/98/IR (CM-II) dated 7-7-1999 of the above said reference from The Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 72 of 1999 was registered on 23-7-1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

The union is neither appearing nor taking any step since 2006 vide order dated 19-5-09. It seems that the Union/Workman is no more interested to proceed with the case further. Hence, the case is closed and accordingly an order of “No Dispute” is hereby passed.

ORDER

Let an “Award” be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

का.आ. 2950.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (आई डी संख्या 23/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2012 को प्राप्त हुआ था।

[सं. एल-22012/157/1998-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 27th August, 2012

S.O. 2950.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial

dispute between the employers in relation to the management of ECL, and their workman, which was received by the Central Government on 27-8-2012.

[No. L-22012/157/1998-IR (CM-II)]
B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 23 of 1999

PARTIES:

The Asstt. General Secretary, KMC, Asansol (W.B.)

Vs.

The Agent, Bahula Colliery, Kenda Area, ECL,
Burdwan (W.B.)

REPRESENTATIVES:

For the Management : Sri P. K. Das .
Ld. Advocate

For the Union (Workman) : Sri Rakesh Kumar,
Ld. Representative

Industry : Coal

State : West Bengal

Dated : 2-8-2012

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Govt. of India through the Ministry of Labour vide its letter No. L-22012/157/98-IR (CM-II) dated 22-3-1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of New Kenda Colliery of ECL in terminating the services of Sh. Lili Kule is legal and justified ? If not, to what relief is the workman entitled ?”

Having received the Order of Letter No. L-22012/157/98/IR (CM-II) dated 22-3-1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 23 of 1999 was registered on 30-3-1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance

of the said order notices by the registered post were sent to the parties concerned.

Sri Rakesh Kumar, Ld. Representative of the Union, submits that the case may be closed as the workman is no more interested to proceed with the case. Since the workman is no more interested to proceed with the case further, the case is closed and accordingly an order of “No Dispute” is hereby passed.

ORDER

Let an “Award” be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

का.आ. 2951.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (आई डी संख्या 79/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2012 को प्राप्त हुआ था।

[सं. एल-22012/420/1998-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 27th August, 2012

S.O. 2951.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 79/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of ECL, and their workman, which was received by the Central Government on 27-8-2012.

[No. L-22012/420/1998-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 79 of 1999

PARTIES:

The Organising Secretary, CMS, P.O.-Asansol,
Burdwan (W.B.)

Vs.

The Agent, Belbad Colliery, ECL, Burdwan (W.B.)

REPRESENTATIVES:

For the Management : Sri P. K. Das,
Ld. Advocate

For the Union (Workman) : None

Industry : Coal State : West Bengal

Dated : 25-7-2012

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Govt. of India through the Ministry of Labour vide its letter No. L-22012/420/98-IR (CM-II) dated 7-7-1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Belbad Colliery over refusal to employment to Smt. Sonamati Devi dependent wife of Late Ramsurat Harijan is justified? If not, to what relief is Smt. Sonamati Devi entitled?”

Having received the Order of Letter No. L-22012/420/98/IR (CM-II) dated 7-7-1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 79 of 1999 was registered on 23-7-1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

The workwoman, Smt. Sonamati Devi is neither appearing nor taking any step since long. It seems that she has no more interest to proceed with the case further. Hence, the case is closed and accordingly an order of “No Dispute” is hereby passed.

ORDER

Let an “Award” be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

का.आ. 2952.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय रिजर्व

बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 08/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/137/2005-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 27th August, 2012

S.O. 2952.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 08/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the industrial dispute between the management of Reserve Bank of India, and their workman, which was received by the Central Government on 27-8-2012.

[No. L-12012/137/2005-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

Dated : 25th July, 2012

PRESENT:

Shri S. N. Navalgund, Presiding Officer

C.R. NO. 08/2006

I Party

II Party

Shri K. S. Radhakrishnan,
No. 48/240, 111 Cross,
9th A Main,
Banasvadi Main Road,
Doddabasanavadi,
Bangalore-560047

The General Manager (A),
The Reserve Bank of India,
Nrupathunga Road,
Bangalore

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred this dispute vide order No. L-12012/137/2005-IR (B-I) dated 20-2-2006 for adjudication on the following Schedule :

SCHEDULE

“Whether the action of the management of Reserve Bank of India is justified in dismissing Shri R. S. Radhakrishnan Coin Note Examiner-I from services with effect from 23-1-2004? If not, to what relief the workman is entitled to and from which date?”

2. It is borne out from the records that the first party workman who was working as Group Supervisor of Group-I in the Note Examination of Section 'B' of Reserve Bank of India, Bangalore branch along with Shri M. Nagraj, Staff Officer; B. Jairaj, Mazdoor; S. Jayarajan, Mazdoor; M. Puttanna, Mazdoor; C. R. Gururaja Rao, Coin/Note Examiner; Narayanaswamy, Coin/Note Examiner; B. Gopalkrishna, Coin/Note Examiner; K. S. Radhakrishnan, Coin/Note Examiner; T. Muthaiyan, Coin/Note Examiner; S. Ramalingam, Mazdoor; R. Kuchelan, Punching Supervisor; V. Thangaraj, Mazdoor; M. Devadas, Seal Keeper; Ramachandra, Sale Staff Officer; G. Hari Ram, Staff Officer and Smt. Ramalakshmi Naidu, Coin/Note Examiner served with charge sheet as under :

Charge Sheet

"You are advised that in the circumstances mentioned in Paragraph 2 below, the charges as set out in paragraph 3 have been framed against you.

2. (i) On 8th February 1979 you were working as Group Supervisor of Group II in the Note Examination Section 'B' of this office. A packet of non-issuable notes of the denomination of Rs. 100 bearing seal BG-OE was examined and prepared by Shri T. Muthaiyan, Coin-Note Examiner Gr. II who was working in your Group under your supervision and control. It was found that in the said packet was comprised of already defaced notes of the same denomination punched prior to 8th February 1979.
- (ii) As the said Coin Note examiner Gr. II was working in your immediate presence, had you exercised due care and diligence in the discharge of your duties, substitution of non-defaced notes by already defaced notes as stated above would not have taken place resulting in a loss of Rs. 10,000 to the Bank. Would not have taken place or you had in collusion with Shri T. Muthaiyan, Coin Note Examiner Grade II who was working under you on 8th February 1979 substituted the notes and wrongfully appropriated to that extent.
3. You are therefore, charged with having discharged your duties in a grossly negligent and inefficient manner and thereby having acted in a manner detrimental to the interests of the Bank causing a loss of Rs. 10,000 to the bank. You are also charged with having committed an act of misconduct by being a party with Shri T. Muthaiyan in the substitution of non-defaced notes by already defaced notes and thereby having acted in a manner detrimental to the interests of the bank causing a loss of Rs. 10,000 to the Bank.

4. Accordingly, this charge sheet is issued to you in pursuance of Regulation 47 of the Reserve Bank of India (Staff) Regulations, 1948.

5. You are hereby called upon to answer the above charges in writing or in person in which case your defence will be taken down in writing and read out to you. Any defence you may wish to proffer, including the list of witnesses you may wish to produce, should be submitted along with the reply to the above charges to the under signed on or before 30th April 1985".

3. Being not satisfied with his reply dated 25-4-1985 the second party while appointing Shri V. V. Nayak, Officer in Grade B as Enquiry Officer and Shri Mohammed Shafi Ahmed, Officer in Grade 'B' as Presenting Officer initiated the Domestic Enquiry and the Enquiry Officer after duly holding the enquiry by his report dated 23-7-2003 held the charges being proved against all. The Disciplinary Authority after causing second show cause notice and giving a personal hearing passed the impugned order of dismissal dated 25-8-2003 and the Appellate Authority as well after giving the personal hearing to the first party confirmed the order of the Disciplinary Authority. Being aggrieved by the said punishment order imposed by the Disciplinary Authority and confirmed by the Appellate Authority the dispute being raised by the first party before the Assistant Labour Commissioner (Central), Bangalore and the said conciliation failed the Central Government made this reference for adjudication.

4. Having regard to the contention raised by the first party with regard to the fairness or otherwise of the Domestic Enquiry my learned Predecessor while raising a preliminary issue as to "Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?" when called upon both the sides to adduce evidence on the same, on behalf of the second party while filing the affidavit of enquiry officer examining him on oath as MW1 enquiry proceedings; show cause notice issued to the first party; findings of the enquiry officer and the orders of the Appellate Authority were got marked as Ex. M1 to M4. After affording several opportunities to cross-examine him since same was not availed discharging him from cross-examination afforded several opportunities to lead rebuttal evidence to first party and that was also not availed. Thereafter my learned Predecessor hearing the arguments addressed by the learned advocates appearing for both sides by his detailed considered order dated 21st May 2007 held the Preliminary Issue in the 'affirmative' i.e. the enquiry being fair and proper the matter came to be posted for hearing arguments on merits.

5. The learned counsel appearing for the first party after availing several opportunities to address arguments on merits ultimately submitted that the first party having been convicted in criminal case as well as he has not been approaching him and hearing the representative of the second party the court may proceed to pass award. Thereafter I have heard the arguments addressed by the second party representative.

6. Since the Domestic Enquiry has been held as fair and proper it was for the first party to demonstrate that the enquiry finding was perverse as such the Disciplinary Authority could not have placed reliance on such a finding to impose the highest punishment of dismissal and at least the Appellate Authority would have intervened and set aside the punishment order or at least reduce the quantum of punishment. But as already adverted to by me above, the first party counsel by making a submission that first party being even convicted in criminal case relating to this very charge and not approaching him he failed to demonstrate the enquiry finding being perverse punishment imposed is disproportionate to the proved charge of misconduct. It is also borne out from the records besides the Domestic Enquiry initiated against the first party and others in relation to this very charge parallel criminal proceedings was also initiated and all the officials have been convicted by the criminal court where in this official was accused No. 5. Apart from that in respect of this very charge in the dispute raised by other five officials this tribunal while confirming the findings of the enquiry officer had reduced punishment of dismissal to compulsory retirement and that order when challenged by the second party before the Hon'ble High Court of Karnataka in Writ Petition No. 556/94 same came to be allowed reversing the modification of punishment by this tribunal confirming order of dismissal passed by the Disciplinary Authority and even writ appeal preferred against that order in the writ petition came to be dismissed. Having regard to this development the first party in this case appears to have lost hope of his success and actually abandoned the reference. Under the circumstances I have no reason to interfere either in the finding of the enquiry officer as perverse or order of punishment imposed by the Disciplinary Authority confirmed by the Appellate Authority.

7. In the result I arrived at the conclusion of rejecting the reference affirming the order of dismissal passed by the Disciplinary Authority and confirmed by the Appellate Authority dated 1st October 2004. Accordingly I pass the following award :

AWARD

The reference is rejected holding that action of the management of Reserve Bank of India is justified in dismissing Shri R. S. Radhakrishnan, Coin Note Examiner-I from service w.e.f. 23-1-2004 i.e. on the

finding of the enquiry officer the charge being proved and that the first party is not entitled for any relief.

(Dictated to PA transcribed by her corrected and signed by me on 25-7-2012)

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

क्र. आ. 2953.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, धनबाद के पंचाट (संदर्भ संख्या 180/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/292/1998-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 27th August, 2012

S.O. 2953.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 180/1999) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 6-8-2012.

[No. L-12012/292/1998-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT:

Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 180 of 1999

PARTIES:

Employer in relation to the management of Bank of India, Jamshedpur and their workman.

APPEARANCES:

On behalf of the workman : Mr. D. K. Verma,
Ed. Advocate.

On behalf of the Management : Mr. S. K.
Chamaria, Ld.
Advocate.

State : Jharkhand

Industry : Banking

Amount

On date from

Holders' A/c. No.

Dated, Dhanbad, the 20th July, 2012

Rs. 2,000

10-5-1994

Sri Guhram Mondal A/c.
No. 3269**ORDER**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal vide their Order No. L-12012/292/93/IR (B-II) dated 25/28-4-1999.

SCHEDULE

"Whether the action of the Management of Bank of India, Jamshedpur is justified in dismissing Shri Ganesh Prasad Thakur from the services of the Bank? If not, what relief is the workman entitled to?"

2. The case of petitioner/workman Ganesh Pd. Thakur is that he had been diligently, faithfully and blamelessly working as Daftry in Cadre of Bank of India, Sini Branch, Distt. Singhbhum West for 24 years. But he was suspended on 6-12-1994 as per order of the Regional Manager, Jamshedpur Region, Disciplinary Authority on the allegation of fraudulently withdrawal of a sum of Rs. 17,000 on various dates from the three Account Holders of the Branch. After completion of the Departmental Enquiry, the Enquiry Officer submitted his report to the Regional Manager, the Disciplinary Authority issued him punishment show cause on 23-3-1996 to which he submitted his show cause against the proposed punishment on 30-3-1996. His appeal with a prayer for condoning its delay filed on 23-8-1996. But he was dismissed from service as per the punishment order No. KO : IR : 5140 dated 30-3-1996 under his receipt on 10-4-1996. His appeal with a prayer for condoning its delay filed on 23-8-1996 was unaccepted as time barred as per the letter No. ZO : RCTT : IR 921 dated 26-1-1997. Being dissatisfied with the aforesaid order of the Authorities concerned, the petitioner/workman filed the application for setting aside the illegal dismissal order being based on unproved fraudulent alleged withdrawal and on conjecture and his coerced confession, as also unconsidering his delay in filing the appeal against it. The petitioner claimed for the relief of his reinstatement in the Bank service.

3. The petitioner categorically denying the allegations of the Management has alleged in his rejoinder that he committed not any misconduct. The Enquiry was not fair, proper and according to the rules of natural justice. The punishment of dismissal is excessive and disproportionate.

4. Whereas the specific denialful case of the Bank Management is that workman Ganesh Pd. Thakur, as Subordinate Staff at Sini Branch of Bank of India, in course of his duties in the year 1994 fraudulently and dishonestly withdrew various amounts of Saving Bank Accounts Holders.

Rs. 1,000

16-5-1994

Sri Guhram Mondal A/c.
No. 3269

Rs. 5,000

30-6-1994

Sri Ghasiram Mondal A/c.
No. 3842

Rs. 4,500

15-7-1994

Sri Ghasiram Mondal A/c.
No. 3842

Rs. 4,000

8-9-1994

Sri Somnath Mahato A/c.
No. 3648

All the withdrawals were done by him through withdrawal slips under forged signatures of aforesaid Account Holders by presenting them with the Pass Books which were handed over to him by them for updating, and he utilised their Pass Books. He was issued the chargesheet dated 21-2-1995 by the Management. He replied for it, denying all the allegations.

At completion of the departmental enquiry fairly, properly and as per the rules of natural justice conducted by Shri S. K. Adak, Regional Secretary, the Enquiry Officer appointed by Shri H. K. Nayak, Dy. Chief Manager of Bank of India, he submitted his enquiry report dated 21-8-1995 holding the workman guilty of the charge. The workman had fully participated therein for his defence. After giving him due opportunity and hearing his submission over punishment for it, the Disciplinary Authority as per penalty order dated 30-3-1996 dismissed the workman from his service. In this way, the action of the Management for his dismissal was legal, bonafide and justified, so he is not entitled to any relief.

5. Further, the Management in its rejoinder categorically denying the allegation of the workman has pleaded that the need of a handwriting expert opinion over the disputes signatures was wrong as the Enquiry Officer was quite competent to comparatively judge the position.

FINDING WITH REASONING

6. In this case, despite more than ample opportunity to the management, not a single witness on its behalf at preliminary point since 1-2-2005 produced, hence as per order dated 27-2-2012 of the tribunal, the domestic enquiry was held unfair, directing the management to produce Management witness on merits. But even then, no witness on behalf of the management on merit produced not any witness for the workman examined. At last, it came up for hearing argument.

Mr. D. K. Verma, Advocate for the workman submits that in lack of proof of the domestic enquiry as fair and of the charges of misconduct of misappropriation against

the workman, his dismissal from his service is too harsh. Mr. S. K. Chamaria, Learned Counsel for the Management did not appear for argument, so it stood reserved for order.

7. In the present situation of lack lustre of the Management or his authorised lawyer concerned, this Tribunal having quasi judicial power as also under Section II A of the I.D. Act has not alternative except to look into the record of the proceeding of the Disciplinary Authority as available on this case record before the Tribunal for due consideration of quantum of punishment. I find the workman as Sub-staff Daftry of Sini Branch was held responsible for his misconduct of misappropriation of the amount of Rs. 17,000 of three Account holders of the Bank Management fraudulently as also admitted by the workman himself. The misconduct of the workman under clause 19.5 (j) of the first Bi-partite Settlement dated 19th October, 1966 was highly serious in nature, both competent Disciplinary Authority, i.e., Regional Manager, Jamshedpur Region, after second show cause to the workman appears to have rightly and legally dismissed him from the service of the Bank, therefore his intentional gross-misconduct of misappropriation of three customers' money merits his dismissal, as the service of the Bank Warrants the high standard of loyalty the workman lacks in the present set-up of the Society. The dismissal punishment to the workman was quite proportionate to the nature of his gross-misconduct.

In result, it hereby awarded that the action of the Management of Bank of India, Jamshedpur is quite legally justified never an arbitrary in dismissing Sri Ganesh Prasad Thakur from the services of the Bank. Therefore, the workman is not entitled to any relief whatsoever.

KISHORI RAM, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

का. आ. 2954.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/107/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/8/1997-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 27th August, 2012

S.O. 2954.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP/107/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure, in the industrial dispute between the employers

in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 14-8-2012.

[No. L-12012/8/1997-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/107/2002

Date: 14-8-2012

Party No. 1 : The Regional Manager,
Punjab National bank,
Kingsway, Nagpur

Versus

Party No. 2 : Shri Ashok Kumar Khandelwal
Gud Oli, Kamptee,
Distt. Nagpur

AWARD

(Dated: 14th August, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Punjab National Bank and their workman, Shri Ashok Khandelwal, to the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur, for adjudication, as per letter No. L-12012/8/97-IR (B-II) dated 7-10-1997, with the following schedule:

"Whether the action of the management of Punjab National Bank in dismissing Shri Ashok Kumar Khandelwal, clerk-cum-cashier, Lakadganj Branch (Nagpur) from services vide order dated 21-8-1995 is legal and justified? If not, to what relief the said workman is entitle and from what date?"

Subsequently, the case was transferred to this Tribunal, for adjudication in accordance with law.

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman Shri Ashok Khandelwal, ("the workman" in short), filed the statement of claim and the management of Punjab National Bank, ("Party No. 1" in short) filed its written statement.

The case of the workman is that he came to be appointed with Party No. 1 w.e.f. 21-6-1980 as a clerk-cum-cashier and after his appointment, he was transferred from Kingsway to Lakadganj branch and while he was working at Lakadganj, he was placed under suspension by order dated 19-1-1987, but no enquiry was commenced against

him and on the basis of the complaint filed by the Bank, criminal case No. 320 of 1987 was registered against him under Sections 420, 409 and 468 of the Indian Penal Code and after the trial, by order dated 13-12-1993, he came to be acquitted and thereafter, on 22-2-1994, the management served a charge sheet for the misconduct under para 19.5 of the Bi-partite Settlement and the charges in the criminal case and the charges levelled in the charge sheet were identical and therefore, it was obligatory upon the Bank not to initiate any proceeding, but despite the same, the Bank initiated the enquiry against him and on receipt of the charge sheet, he submitted his reply and also asked per permission to engage a lawyer for his defence, but his application to engage a lawyer was rejected, in violation of the principles of natural justice, as well as against the judgment of the Hon'ble Bombay High Court. It is further pleaded by the workman that he demanded the original documents from the Bank, for seeking opinion of a handwriting expert, but his application was rejected and the enquiry officer conducted the enquiry in a most arbitrary and illegal manner and the enquiry officer after conclusion of the enquiry, submitted his report to the Disciplinary Authority, but the said report is baseless and suffers from non-application of mind and the findings of the enquiry officer are totally perverse and on such findings, punishment should not have been inflicted upon him and on receipt of the letter dated 12-7-1995 from party no. 1, he submitted his reply on 24-7-1995 and raised the grounds that as the Bank is covered by Bombay Shops and Establishment Act, the charge sheet should have been submitted under the standing orders and as such, the charge sheet is illegal, suspension allowance as per standing orders was not paid, for which, the enquiry was vitiated, he was not allowed to be represented by a lawyer, original documents were not supplied and he was not allowed to take assistance of a handwriting expert, reliance was placed on the report of the handwriting expert without his examination and cross-examination as a witness and presence of his defence witness was not secured and there was delay in initiating the enquiry proceeding and on 24-7-1995, he was called by the Regional Manager and the Regional Manager passed the final order of dismissal from services on 21-8-1995 and the appeal preferred by him was dismissed by the Appellate Authority on 19-12-1995 and the order was communicated to him by letter dated 1-1-1996 and from the said facts, it is clear that management was bent upon to dismiss him and not to settle the matter amicably. It is also pleaded by the workman that the entire action of the management was totally illegal and the enquiry conducted against him is violative of the principles of natural justice and the report of the enquiry officer is one sided and no action was called for on the basis of such report and his entire service record is clean and excellent and therefore, the punishment of dismissal is shockingly disproportionate. The workman

has prayed for his reinstatement in service with continuity, back wages and all other consequential reliefs.

3. The party no. 1 in its written statement has pleaded inter alia that the workman while working as clerk-cum-cashier with it, by mis-using his position, opened an account in the fictitious name of "Ramesh Kumar Sahu" with kingsway Branch of the Punjab National Bank on 18-6-1986 and then on 27-10-1986, he prepared a cash voucher of Rs. 10,000 and forged the signature of the cashier with seal and the voucher prepared by him was sent by him through Mr. Wath, a peon then working on teller counter and after posting of the voucher by the ledger keeper, he personally withdrew the voucher from the ledger and on 28-10-1986, 31-10-1986, 8-11-1986 and 2-12-1986, he withdrew the amount of Rs. 2000, Rs. 2000, Rs. 2000 and Rs. 3000 respectively and on 15-11-1986, he again withdrew Rs. 1000 from the said account and when the fraud of Rs. 10,000 came to the knowledge of its officials, a detailed enquiry was made and it was revealed that the workman was involved in the fraud of Rs. 10,000, so he was called by the Branch Manager and a detailed enquiry was made from the workman and the workman admitted his guilt on 15-1-1987, in presence of the Manager, Shri Sundar Raman and Shri M.J. Patankar and in presence of his elder brother and the workman in his own handwriting addressed a letter to the Branch Manager and accepted his guilt on 15-1-1987 and on 19-1-1987, the workman was suspended and a police complaint was made and during the period from 1987 to 1993, the criminal case was pending and the workman was acquitted in the criminal case by the J.M.F.C., 6th Court, Nagpur on 13-12-1993 and as such, it was decided to proceed against the workman departmentally in terms of the provisions of the Bi-partite Settlement, so charge sheet dated 22-3-1994 was issued against the workman and the workman received the charge sheet on 24-3-1994 and submitted his reply denying the charges, so Shri R. Sundarrajan was appointed as the enquiry officer and the first date of the enquiry was fixed to 1-8-1994 and on that date, the workman attended the enquiry and he denied the charges levelled against him after which, some documents were produced before the enquiry officer and copies of the same were supplied to the workman and the workman admitted the documents and the workman submitted an application for time to engage his defence representative, so the enquiry was adjourned to 8-8-1994 and on that date, the management representative filed the list of witnesses and the workman informed the enquiry officer to engage Shri Ashok Nikhar as his defence representative and asked for adjournment, so the enquiry was adjourned to 8-8-1994 and on 8-8-1994 the list of witnesses was submitted by the presenting officer and the workman intimated the enquiry officer to engage Shri Ashok Nikar as his defence assistant and requested for explanation of the witness in presence of his defence assistant, so the enquiry was adjourned to 9-8-1994

and on 9-8-1994, the first witness for management was examined and he was cross-examined by the defence representative, Shri Nikhar and then the enquiry was adjourned to 10-8-1994 and on 10-8-1994, documents Exhibit No. Dd-2 was filed on record and the cross-examination of witness no. 1 for management was completed and witness no. 2 was examined and cross-examined by defence assistant and then the enquiry was adjourned to 11-8-1994 and on 11-8-1994, the workman demanded certain documents and directions was given by the enquiry officer to the presenting officer to make arrangement for production of the said documents and the third and fourth witnesses for the management were examined and cross-examined by the defence representative and then, the enquiry was adjourned to 12-8-1994 and on 12-8-1994, the fifth witness for management was examined and cross-examined by the defence assistant and then, the enquiry was adjourned to 5-9-1994 and on 5-9-1994, witness Shri M.J. Patankar was present, but the workman asked for adjournment on the ground of absence of his defence assistant, but as the witness had come from Jamnagar, Gujarat, the enquiry officer recorded his statement and adjourned the enquiry to 6-9-1994 on the prayer of the workman for cross-examination and on 6-9-1994, Shri Patankar was cross-examined by the defence assistant and then, the next witness for the management was examined and he was cross-examined by the defence assistant. The further case of the party no. 1 is that the enquiry was adjourned to 17-10-1994 from 6-9-1994 and on 17-10-1994, witness, Shri Sundarraman was examined and he was cross-examined by the workman himself and the enquiry was adjourned to 26-10-1994 and the enquiry was also adjourned from 26-10-1994 to 14-11-1994, from 14-11-1994 to 22-11-1994 and 22-11-1994 to 5-12-1994, on the ground of alleged illness of the workman and on 5-12-1994, management representative intimated about the management of having no more witness for examination and sought permission to file the report of the handwriting expert and the documents demanded by the workman and those documents were produced and the workman submitted the list of defence witnesses and requested the enquiry officer to relieve Shri Ramesh Ashudani as defence witness on the next date and the enquiry was adjourned to 14-12-1994, and on that date, no witness was present and the workman requested for custody of the original documents, which were sent to the handwriting expert and as the documents were in respect of the fraud case and as handing over the documents to the workman was not in the interest of the Bank, the request of the defence was turned down and the enquiry was adjourned to 22-12-1994 and on 22-12-1994, defence witnesses were absent, so the enquiry was adjourned to 3-1-1995 and then to 18-1-1995, as no defence witness was present and on 18-1-1995, the workman asked the enquiry officer to allow him to engage a handwriting expert to cross-examine the handwriting expert, but as

such a course was not open in the departmental enquiry, the request was turned down and then the enquiry was adjourned to 30-1-1995 and from 30-1-1995 to 20-2-1995 on the prayer of the workman and on 20-2-1995, the workman closed his case and both the parties agreed to submit written notes of argument and after consideration of the written notes of argument submitted by the parties, the enquiry officer submitted his report to the Disciplinary Authority and the workman was served with the show cause notice dated 12-7-1995 and was called upon to show cause as to why he should not be dismissed from service and he was given personal hearing on 24-7-1995 and taking into consideration the written submission of the workman and the submission made during personal hearing, he was dismissed from service by order dated 21-8-1995 and the workman was given full opportunity to defend himself and the principles of natural justice were followed and the workman was supplied with documents relied on by the management and witnesses of the management were cross-examined by the defence assistant and the workman was allowed opportunity to adduce defence witnesses, but he did not avail the same and the enquiry is legal, fair and proper. It is further pleaded by the party no. 1 that in terms of the provisions of para 19.3(c) of the Bipartite settlement, it was open for the Bank to proceed against the workman departmentally, even after his acquittal by the criminal court and the prayer of the workman to engage lawyer as his defence representative was rejected, after due consideration, on the ground that the presenting officer of the Bank was not a legally trained personnel and in view of the admission of guilt by the workman in writing by his letter dated 15-1-1987, so the rejection of the request of the workman to engage lawyer by the Bank cannot be said to be prejudicial and the service conditions of Bank employees are governed by Bipartite settlement and therefore the charge sheet was rightly issued under the provisions of Bipartite settlement and suspension allowance was also given to the workman as per the Bipartite settlement and the report of the enquiry officer is not perverse and the punishment is appropriate and not shockingly disproportionate and the workman is not entitled to any relief.

4. As this is a case of dismissal of the workman from services, after holding a departmental enquiry, the validity of the departmental enquiry was taken as a preliminary issue for consideration and by order dated 25-10-2011, the enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

5. At the time of argument, it was submitted by the learned advocate for the workman that on the basis of the complaint filed by the party no. 1, criminal case no. 320/87 was instituted against the workman under Section 420, 409 and 468 of the Indian Penal Code, but by order dated

13-12-1993, he was acquitted by the court, which clearly shows that the workman did not commit any offence as alleged and it was only on 22-2-1994, the management served the charge sheet for commission of the alleged misconduct under para 19.5 of the Bipartite settlement and as the charges before the criminal court and the charges levelled in the charge sheet were identical, the initiation of the departmental enquiry is illegal and though the workman requested the enquiry officer to allow him to engage and advocate to defend himself, such request was turned down in violation of the principles of natural justice and the report of the enquiry officer is baseless and suffers from non application of mind and the findings are totally perverse and basing on such findings, no punishment could have been inflicted upon the workman and as the Bank is covered by Bombay Shops and Establishments Act, the charge sheet should have been filed under the Standing Orders and as the charge sheet was not filed under Standing Orders, the charge sheet was illegal and as such, the entire enquiry and punishment imposed against the workman basing on such illegal charge sheet is also illegal and the entire service record of the workman was clean and excellent and therefore, the punishment of dismissal is shockingly disproportionate and thus, the workman is entitled to reinstatement in service with continuity and full back wages.

6. Per contra, it was submitted by the learned advocate for the party no. 1 that by order dated 25-10-2011, the issue of the validity and fairness to the enquiry has already been answered in favour of the party no. 1 and at the time of consideration of the validity of the departmental enquiry, the submissions regarding the initiation of the departmental enquiry after acquittal of the workman in the criminal case, refusal of permission to the workman for engagement of a lawyer to defend him and non submission of charge sheet under the standing orders were already considered alongwith other submissions made on behalf of the workman and answered against the workman and therefore, the afore stated submissions cannot be taken into consideration again and now the issues for consideration by the Tribunal are regarding the perversity or otherwise of the findings of the enquiry officer and the proportionality of the punishment and it is clear from the materials on record that the findings of the enquiry officer are based on the materials produced during the departmental enquiry and the enquiry officer has assigned cogent reasons in support of such findings and the findings are not perverse and the workman was an officer of the Bank and hold a position of trust, where honesty and integrity were inbuilt requirements of functioning and therefore, the matter required to be dealt with firmly with firm hands and not leniently and there was no question of consideration of the past recorded of the workman at the time of imposition of the punishment as he was involved in misappropriation

of money and the punishment imposed is commensurate with the misconduct proved against him.

7. On perusal of the order passed on the validity and fairness of the departmental enquiry dated 25-10-2011, it is found that the submissions in regard to initiation of the departmental enquiry after acquittal of the workman in the criminal case, refusal of permission for engagement of lawyer in the enquiry to defend the workman and non-submission of the charge sheet under the standing orders have already been considered, so there is no scope for consideration of the same again.

8. So far the scope of interference with the imposition of punishment by the Tribunal is concerned, it is well settled by the Hon'ble Apex Court in a number of decisions that the court or Tribunal cannot interfere with discretion exercise by the competent authority in imposition of punishment, unless the same suffers from illegality or procedural irregularity of material nature or the punishment is shockingly disproportionate.

Keeping in view the principles enunciated by the Hon'ble Apex Court as mentioned above, on examination of the materials on record of the case in hand, it is found that the enquiry officer has analyzed the evidence adduced before him in the departmental enquiry in a rational manner and his findings are based on the materials on record and not on any extraneous materials. The enquiry officer has also assigned cogent reasons in support of his findings. Hence, the findings of the enquiry officer cannot be said to be perverse. This is also not a case of no evidence. The charges levelled against the workman have been proved against him in a properly held departmental enquiry. In the instant case, the workman was found guilty of misappropriating the Bank's fund. There is nothing wrong in the Bank losing confidence or faith in such an employee and awarding the punishment of dismissal.

It is also well settled by the Hon'ble Apex Court that in case of proved misappropriation, there is no question of considering the past record and it is the discretion of the employer to consider the same in appropriate cases, but the Labour Court cannot substitute the penalty imposed by the employer.

In view of the materials on record and the discussions made above, it is found that the punishment of dismissal from service imposed against the workman for the proved serious and grave misconduct cannot be said to be shockingly disproportionate, calling for any interference. Hence, it is ordered :

ORDER

The action of the management of Punjab National Bank in dismissing Sh. Ashok Kumar Khandelwal, Clerk-cum-Cashier, Lakadganj Branch (Nagpur) from

services vide order dated 21-8-1995 is legal & justified. The workman is not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

का.आ. 2955.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 8/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/78/2009-आई आर (बी-11)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 27th August, 2012

S.O. 2955.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2010) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 8-8-2012.

[No. L-12012/78/2009-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 8 of 2010

BETWEEN:

Sri Gaurav Kumar
Son of Sri Michal Kumar,
West Campus PG Colony,
HBTI Nawabganj,
Kanpur

AND

The Assistant General Manager,
Syndicate Bank,
43/28 Naval Kishore Road,
Jazaratganj,
Lucknow

AWARD

1. Central Government, Mol, New Delhi, vide notification No. L-12012/78/2009 IR (B-II) dated 12-01-2010 has referred the following dispute for adjudication :

2. "Whether the action of the management of Syndicate Bank, Lucknow in terminating the services

of Sri Gaurav Kumar son of Michal Kumar with effect from 1-10-2008 is just and proper ? What relief the concerned workman is entitled to ?

3. Brief facts are :

4. It is alleged by the complainant that he was working as a sweeper in the Syndicate Bank at Bara Bazar Branch District Kannauj with effect from 7-6-06. He was being paid Rs. 60 per day. Apart from the work of sweeping he was also utilized to work as peon in the branch. He had worked for 288 days continuously in a calendar year 2006-07. Without assigning any reason his service had been terminated on 1-10-08. No notice, notice pay or retrenchment compensation was paid to him by the bank at the time of dispensation with the services. It is further alleged by the claimant that at the place where he was working, the management under a conspiracy engaged a person by name Sri Sanjai after 5 days from the date of his termination. He made repeated representation to re-engage him in the service but all in vain. Lastly it has been prayed the action of the management is liable to be rejected and he be directed to be reinstated in the service of the management with full back wages and continuity of service.

5. Opposite party has contested the claim of the workman by filing written reply. They have stated that the claimant was engaged as a daily rated part time sweeper by Syndicate Bank by Bara Bazar Branch District Kannauj. He was required to do sweeping work only for one or two hours a day as the branch was small and he was at liberty to go and to do any other job after finishing his work. He was not issued any appointment letter as he was not engaged against any regular or permanent post. According to the opposite party at the branch there was no permanent post of sweeper at the branch. He was not being paid his salary but was being paid according to agreed rate. There never existed the relationship of master and servant between the bank and the claimant. No termination letter was issued to the claimant nor did the bank ever terminate the services of the workman on the alleged date. It is also denied that the claimant had ever rendered continuous service for 240 days. It is also pleaded by the bank that the claimant by means of this reference is inclined to seek back door entry in the service of the bank. As the claimant was never retrenched so question of applicability of the provision of the Industrial Disputes Act, 1947, does not arise at all.

6. On the basis of above it has been prayed that the claim of the claimant lacks merit and as such is not maintainable and is liable to be dismissed and should be dismissed.

7. Rejoinder has also been filed by the claimant but nothing new has been pleaded there in by him except reiterating the please already given in his claim statement.

8. Workman has filed oral as well as documentary evidence, whereas the opposite party has given oral evidence. No documentary evidence has been filed by the opposite party.

9. Whereas the workman produced himself as W.W. 1 management has produced Sri Jagat Singh, Manager Syndicate Bank appeared as M.W. 1.

10. Heard and perused the entire record thoroughly.

11. The short question to be decided in this case is whether the claimant has worked for 240 days or more in on calendar year preceding the date of his termination as PTS with the bank.

12. I have examined the evidence oral as well as documentary adduced by the parties.

13. At the outset I would like to reproduce the admission which, have occurred in the statement of M.W. 1 Sri Jagat Singh who is a branch manager. He has specifically admitted on oath that he had been the branch manager of the said branch with effect from 2-6-06 till 6-8-2010 and he categorically admitted that the claimant Sri Gaurav Kumar was working with him in the said branch till October 08 as a daily wage. This statement of M.W. 1 that the claimant did not work continuously since his engagement does not appear to be believable as he has not named any other person who has been working in his absence. Whereas the claimant has filed his statement on oath stating that he had been continuously working since his engagement or employment with effect from 7-6-06 and till his termination on 1-10-08. This finds force from the documentary evidence which have been filed by the claimant along with affidavit and narrated in the statement.

14. Annexure A is the format which was filled by the head of the branch office. It clearly shows the name of the claimant who has been engaged as a PTS temporary since 7th June, 06 on Rs. 60 per day except holidays.

15. There is another document Annexure C dated 7th June, 07, it is written by the branch to their head office stating that the claimant is working in their branch as daily wage and his certificates were also sent stating therein what will be the procedure to continue him as temporary part time sweeper, also stating that he is working continuously.

16. There is one more letter Annexure D dated 29th July, 2008, written by branch office to the Head office of the Bank regarding penal of PTS. It also stated that the claimant is working in their branch since the opening of the branch on daily wage basis.

17. The authenticity and genuineness of these documents coupled with the statement of claimant on oath as well as admissions of the opposite party cannot be denied.

18. Therefore, considering the whole evidence and the circumstances of the case it is found that the claimant has been able to prove that he had been working as a part time sweeper since 7th June, 06 and worked continuously for 240 days or more in a calendar year preceding the date of his termination. Therefore, a right has accrued to him that before his termination retrenchment notice, notice pay or retrenchment compensation should have been paid to him which was the mandatory requirement as per provisions of Section 25-F of the Industrial Disputes Act, 1947. Admittedly according to the statement of the claimant this mandatory requirement was not discharged by the opposite party at the time of termination of his service. Legislation does not make any difference between part time employees, badli employees temporary employee or regular and permanent employee.

19. There is one more allegation leveled against the management that a conspiracy was hatched before his termination and one person in the name of Sanjai who was the relative of the bank guard was employed in his place just after his termination. This facts has been stated by W.W. 1 on oath and when M.W. 1 was cross-examined on this point, M > -1 admitted on oath that presently one person in the name of Sanjai is working just after the oral termination of the service of the claimant. He does not know whether he has been made permanent or not.

20. In my view it shows that the work on which the workman was engaged is of permanent nature as alleged by the claimant and the management has removed him without any reason. As such they have adopted unfair labour practice as well as they have also breached the provisions of Section 25-G of the Act.

21. Opposite party has placed reliance on a number of rulings mainly on the point that the burden of proof lies on the claimant to prove that he had worked for 240 days or more in a calendar year. But in my view it has been found that the claimant has successfully discharged his burden to prove the fact that he had rendered 240 days of continuous service with the bank.

22. Therefore, the opposite party cannot take any favour from the rulings 2005 (105) FLR 383 SC Bank of Baroda versus Ghimerbhai Harji Bhai Rabri.

23. It is therefore, concluded that the claimant has proved his case that he was engaged by the opposite party bank as PTS and that the provisions of Sections 25-F and G of the Act has been flouted by the bank. Accordingly he is held entitled to be reinstated in service.

24. Considering the facts and circumstances of the case he is entitled to 50% of the back wages.

25. Reference is answered accordingly in favour of the claimant and against the opposite party bank.

RAM PARKASH, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

क्र.अ. 2956.—औद्योगिक विवाद अधिनियम, 1947 (1947 को 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, धनबाद के पंचाट (संदर्भ संख्या 11/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।

[सं. एल-12011/92/2006-आई आर (बी-II)]

शीश राम, अनुष्ठाग अधिकारी

New Delhi, the 27th August, 2012

S.O. 2956.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2007) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 3-8-2012.

[No. L-12011/92/2006-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 11 of 2007

PARTIES:

Employers in relation to the management of UCO Bank.

AND

Their Workmen

PRESENT:

Shri H. M. Singh, Presiding Officer

APPEARANCES:

For the Employers : Shri A. K. Sinha,
Management Representative

For the Workman : Shri B. Prasad,
Authorised Representative

State : Bihar

Industry : Bank

Dated, the 4th June, 2012

AWARD

By Order No. L-12011/92/2006-IR (B-II) dated 12-2-2007 the Central Government in the Ministry of Labour

has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of UCO Bank, Patna in not reinstating and regularising the services of Shri Binod Kumar S/O Shri Kailash Mandal, Vill-Mahaddipur, P. S. Kasin Bazar, Mungher, Casual Worker, performing the duties of peon, is legal and or justified and expedient ? If not, what relief Shri Binod Kumar is entitled to ?”

2. The case of the concerned workman is that he was orally appointed to discharge the duties of a peon w.e.f. 3-6-1987 at Munger Branch. He used to perform the duties of a peon from 10 A.M. to 6 P.M. every day even on Sundays on a payment @ Rs. 5 initially as wages which was increased to @ Rs. 35 per day and paid to him through voucher. The workman performed all the duties of a peon under the instructions of his superiors, such as, taking out ledgers, registers from the Almirah, placing the same on tables, counters and vice-versa; posting of mails whenever required; carrying token book, scroll registers; stitching of vouchers/currency notes when ever required; Serving water, tea to the members of staff as per requirement, etc. A settlement was arrived at between the representatives of workmen Unions and the management of UCO Bank at Apex level on 12-10-89 for permanent absorption of the services of all daily rated workmen performing the works of a peon and working for 240 days during the period 12-10-86 to 12-10-89. Following the settlement, the workman submitted his application to the Manager of the Bank for his empanelment and permanent absorption in services of the Bank as a peon. He fulfilled all criteria laid down in the settlement. The management instructed the workman on 1-12-1997 to stop his work and not to attend the office from w.e.f. 1-12-1997. The concerned workman represented before the management for his reinstatement but without any effect. Thereafter an industrial dispute was raised before the A.L.C. (C) which ended in failure and the Govt. of India, Ministry of Labour, has referred the dispute for adjudication to this Tribunal. The concerned workman was neither given notice nor notice pay nor any retrenchment compensation prior to termination. The action of the management in terminating the services of the workman and not regularising him as a peon is neither legal, nor justified.

It has been prayed that the Hon'ble Tribunal be pleased to pass an award by directing the management to reinstate with back wages and to regularise his service as a peon w.e.f. 1-4-2003.

3. The case of the management is that Shri Binod Kumar was engaged by the Branch Manager on casual basis for bringing drinking water and sometime to clerk the branch premises. The Branch Manager has got no authority to engage him, so his engagement is illegal. The UCO Bank

Employees Association raised the present industrial dispute for regularisation of Binod Kumar on 4-4-2006. It has been stated that an agreement was signed on 12-10-1989 with the three recognised unions, namely, (i) All India UCO Bank Employees Federation, (ii) United Commercial Bank Employees Association, (iii) All India United Commercial Bank Staff Federation with the management at the apex level whereby it was agreed that those who have completed 240 days or more without interruption during the period immediately preceding the settlement will be eligible for empanelment. There were other terms and conditions in the agreement. In the meantime the Banking Division Department of Economic Affairs, Ministry of Finance, Govt. of India advised all the Public Sector Banks that no additional post should be created against the existing vacancies including consequential vacancies arising out of retirement resignation, death or promotion should not be filled up. The Reserve Bank of India also decided that there will be ben on the recruitment of the staff including replacement resignation should continue in the year 1996-97. Being aggrieved the said UCO Bank Employees Federation filed a writ application in the Calcutta High Court being W.P. No. 1390 of 1998 on behalf of the empanelled casual part-time employees. In view of the submission of the Bank the Hon'ble Calcutta High Court by an order dated 4-8-1999, observed that restriction imposed by the Reserve Bank of India, the Bank cannot absorb the said casual workers. Hon'ble Calcutta High Court also directed the Bank authorities not to fill up any post until there empanelled casual workers are not absorbed in the substantive posts. In spite of the aforesaid judgement the Union raised the present industrial dispute. The workman concerned never worked for full day. At no time any approval for engagement of payment of wages was obtained from the competent authority. No appointment letter was issued, no pay slip was issued.

In such circumstances it has been prayed that the Hon'ble Tribunal be pleased to hold that the action of the UCO Bank, Patna is legal and justified the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The management produced MW-1 Nand Lal Paswan. The documents have been proved as Exts. M-1 to M-7.

The concerned workman examined himself as WW-1 and documents have been marked as Exts. W-1 to W-4/1.

6. Main argument advanced on behalf of the concerned workman that he had worked with the management from 3-6-1987 and he used to perform his duties of a peon from 10 A.M. to 6 P.M. even on Saturdays on a payment of Rs. 5 per day as per requirement of the Bank and later on it enhanced at Rs. 35 per day. There is a

settlement dated 12-10-1989 for regularisation of daily rated workman. But the first batch have been regularised in the year 2003 and the concerned workman has been regularised w.e.f. 1-12-1997.

7. In this respect the management argued that he cannot be regularised. Moreover, management's evidence stated in his cross-examination that I know the workman I cannot say first date of engagement and last date of removal because I was not there at that time. There was a settlement in 1989 for regularisation of workers who had worked for 240 days in three years, proceeding the date of settlement number of persons have been regularised under this settlement. I cannot say whether guards and clerks have been appointed. I cannot say whether 299 Arm-Guards have been appointed. Period was not mentioned in the vouchers. Some vouchers were available and some are not traceable. It shows that there is no fault on the part of the concerned workman. It is fault of the management. They argued that as per order of the Hon'ble Calcutta High Court the concerned workman is not entitled for regularisation. But the management have to follow the settlement.

8. The management referred 1999(3) PIJR 763 and also referred 2009(2) PIJR 1017.

As per management's evidence they made the settlement dated 12-10-1989 for regularisation/absorption and on that basis they have regularised a number of persons and they have not followed the settlement as per Ext. W-1 and M-6. They have to follow the settlement with the union, as per Ext. W-3, for appointment as Peon/Farash.

Considering the above facts and circumstances it shows that the management have not followed settlement Exts. W-1 and M-6, so they have to follow the settlement with the union. The management has not filed document of workings of the workman so that working days can be calculated. It shows. It shows that the workman has completed 240 days workings in a calendar year during the period 12-10-86 to 12-10-89. The management cannot give correct working days on which basis payment has been made to the concerned workman because records are not available and some vouchers are not traceable of period of working and payment to him by the Bank.

9. Considering the above facts and circumstances, I held that the action of the management of UCO Bank, Patna in not reinstating and regularising the services of Shri Binod Kumar, Casual Worker, performing the duties of Peon is not legal and not justified and hence the concerned workman is entitled to be reinstated in service with effect from the date of his stoppage of work and to regularise him as Peon w.e.f. 1-1-2003. Management is directed to implement the award within 30 days from the date of publication of the Award.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 27 अगस्त, 2012

का.आ. 2957.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स जेम ग्रेनाइट कादुक्कामरम नादुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 39/2010, 20, 21, 22 और 23/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-7-2012 को प्राप्त हुआ था।

[सं. एल-29011/70, 69, 78, 82, 83/2002-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 27th August, 2012

S.O. 2957.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 39/2010, 20, 21, 22 and 23/2011) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s Gem Granites, Kadukkamaram Nadur and their workman, which was received by the Central Government on 31-7-2012.

[No. L-29011/70, 69, 78, 82, 83/2002-IR (M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Wednesday, the 25th July, 2012

PRESENT:

A. N. JANARDANAN, Presiding Officer

I.D. Nos. 39/2010, 20, 21, 22 and 23 of 2011

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Gem Granites (P) Ltd. and their workmen].

S. No.	ID NO. & Date	Reference No.	Name of the 1st Party S/Sri	Name of 2nd Party
(1)	(2)	(3)	(4)	(5)
1.	39/2010	L-29011/70/2002-IR(M) dated 3-12-2010	Sri A. Kanagaraj and 3 others viz. P. Chelliya, M. Vellaisamy (since deceased), P. Vadeval	M/s. Gem Granites Kadukkamaram, Nadur Post, Yercaud-636602

(1)	(2)	(3)	(4)	(5)
2.	20/2011	L-29011/69/2002-IR(M) dated 9-3-2011	P. Kandasamy	M/s. Gem Granites Kadukkamaram, Nadur Post, Yercaud-636602
3.	21/2011	L-29011/78/2002-IR(M) dated 9-3-2011	N. Muthusamy	M/s. Gem Granites Kadukkamaram, Nadur Post, Yercaud-636602
4.	22/2011	L-29011/82/2002-IR(M) dated 9-3-2011	M. Mayilvahanan	M/s. Gem Granites Kadukkamaram, Nadur Post, Yercaud-636602
5.	23/2011	L-29011/83/2002-IR(M) dated 9-3-2011	R. Krishnan	M/s. Gem Granites Kadukkamaram, Nadur Post, Yercaud-636602

APPEARANCE:

For the 1st Party/ : Sri S. Vaidyanathan, Advocate
Petitioner

For the 2nd Party/ : Sri M. R. Dharanichander, Advocate
Management

COMMON AWARD

The Central Government, Ministry of Labour and Employment vide the above order of references referred the IDs mentioned above to this Tribunal for adjudication.

2. The schedule mentioned in the order of reference in the above IDs are as under :

ID 39/2010

"Whether the demand of the workmen S/Sri A. Kanagaraj, P. Chelliya, M. Vellaisamy and P. Vadeval (4 petitioners) for reinstatement w.e.f. 1-2-2001 from the management of Gem Granites with back wages is just and legal ? What relief the workmen concerned are entitled ?"

ID 20/2011

"Whether the action of the management of M/s Gem Granites in terminating the services of Sri P. Kandasamy w.e.f. 1-2-2001 is just and legal ? What relief the worker concerned is entitled to ?"

ID 21/2011

"Whether the action of the management of M/s Gem Granites in terminating the services of Sri N. Muthusamy w.e.f. 1-2-2001 is just and legal ? What relief the worker concerned is entitled to ?"

ID 22/2011

“Whether the action of the management of M/s Gem Granites in terminating the services of Sri M. Mayilvahanan w.e.f. 1-2-2001 is just and legal? What relief the worker concerned is entitled to?”

ID 23/2011

“Whether the action of the management of M/s Gem Granites in terminating the services of Sri R. Krishnan w.e.f. 1-1-2001 is just and legal?”

3. After the receipt of Industrial Disputes, this Tribunal has numbered it as I.D. 39/2010, 20, 21, 22 and 23 of 2011 and issued notices to both sides. Both sides entered appearance through their Advocates and filed their Claim Statements followed by Amended Claim Statement, Counter Statement, Rejoinder Statement Counter Statement Reply Statement, Additional Counter Statement and Common Additional Rejoinder Affidavit as the case may be.

4. In all these cases, the claims of the petitioners are common. On behalf of the petitioners, since the issue are the same, common set of documents is adopted. Both sides filed joint memo/IA for joint trial of all the IDs. Both petitioners and Respondent have adduced evidence in common for all the IDs.

5. The averments in the separate Claim Statements but with common or the same averments in all including the Amended Claim Statement briefly read as follows :

Petitioners under ID 39/2010 viz. S/Sri A. Kanagaraj rendering 18 years of service was terminated on 1-2-2001, P. Chelliya rendering more than two decades of service was terminated on 1-1-2001, M. Vellaisamy (since deceased) rendering more than two decades was terminated on 1-2-2001, P. Vadeval rendering 18 years of service was terminated on 1-2-2001, P. Kandasamy, (ID 20/2011), N. Muthusamy (ID 21/2011) both rendering 18 years of service were terminated on 1-2-2001, M. Mayilvahanan (ID 22/2011) rendering 16 years of service was terminated on 1-2-2001 and R. Krishnan (ID 23/2011) rendering 10 years of service was terminated on 1-1-2001.

They were permanent employees of the Respondent/ Management and had rendered unblemished service. Sri A. Kanagaraj is aged 45 years. Sri P. Kandasamy is aged 54 years. Sri N. Muthusamy is aged 50 years. Sri M. Mayilvahanan is aged 55 years and Sri R. Krishnan is aged 54 years. They worked upto 31-1-2001/31-12-2000 and the Respondent for no reason denied employment w.e.f. 1-1-2001/1-2-2001. On 26-2-2001/28-3-2001 they sent representations to the Respondent for reinstatement with back wages and all other benefits which the Respondent refused to receive. On 28-3-2001 they raised an Industrial Dispute before RLC (Central), Chennai under Section-

2A of the ID Act. The Management did not reply. Respondent asked petitioners to withdraw the ID before the Conciliation Officer and thereafter to report for work. They requested Respondent to inform this before the Conciliation Officer. On 24-9-2001 Respondent submitted reply to the Conciliation Officer admitting that Respondent temporarily stopped production between 1-2-2001 and 15-2-2001 and that petitioners were asked to report for work from 16-2-2001 which they refused and they absented on their own accord and stated that they did not come for work despite request from the Respondent. Respondent stated that they had kept the offer of reinstatement without back wages since the employees absented on their own. But the offer is subject to the condition that the employee should be transferred elsewhere other than Yercaud Mines which was not accepted by the workmen. They were willing to report at the place from where they were stopped from employment, without prejudice to the rights of the parties as to whether the period of non-employment is on account of their fault or due to the action of the Management. The employees never raised a dispute regarding transfer. It is not a dispute under Section-2K. The Respondent based on the confidential report of the conciliation officer passed the following order “It is seen that the Management had not terminated the service of the workmen but only transferred to other mines. It is the prerogative of the Management to transfer the workmen. The workmen could not point out mala fide on the part of the Management”. On challenge of the order declining to refer dispute in a Writ of the petitioners High Court of Madras set aside the order directing to refer the issue. Among the petitioners except Chelliya and R. Krishnan others were divested of their duties on 1-2-2001 and Chelliya and R. Krishnan denied employment with effect from 1-1-2001. As admitted in the Counter of the Management before the Conciliation Officer they were not given work on 1-2-2001. The case of the Management is that the workers abandoned the services. Management admittedly did not conduct any enquiry. The petitioners are without employment thereafter. Their last drawn pay was Rs. 56.30 per day paid on weekly basis. At present minimum wages per day payable is 194. They completed 480 days of continuous service in a period of less than 24 calendar months and deemed to have attained permanent status. They were given wage slips. Management denied retrenchment compensation violating statutory provisions under Section-25F, Section-25G and Section-25H of the ID Act. The action amounts to victimization in colourable exercise of power and is arbitrary and illegal. Chelliya, a permanent employee who had worked upto 31-12-2000 rendering service

of more than two decades was denied employment w.e.f. 1-1-2001. His representation dated 2-1-2001 for reinstatement, etc. was refused to be received. He also raised ID under Section-2A on 29-1-2001. Pending conciliation Management sent a letter dated 19-3-2001 to Chelliya alleging him to be absent on 1-1-1991 and the petitioner reported for work on 30-3-2001 which on being given he worked upto 9-4-2001. On this demand for back wages from 1-1-2001 to 29-3-2001 and in view of letter dated 10-4-2001 of the Petitioner Union he was again denied employment from 10-4-2001. To Chelliya's earlier representation dated 28-3-2001, Management submitted reply before Conciliation Officer on 16-6-2001 stating Chelliya not to have had come for work in spite of request. According to Management Chelliya absented from 1-1-2001 on his own and misbehaved with the Security Officer. Management in their letter clearly mentioned that unless and until the case filed by the Conciliation Officer is withdrawn employment would not be given. Vellasamy was a permanent employee with unblemished service for more than two decades. He was terminated on 1-2-2001. He died on 27-11-2008 leaving behind his only legal heir Sankarayee, being impleaded. In the event of setting aside the termination she is entitled to back wages from 1-2-2001 till date of death of Vellasamy and to other terminal benefits with interest @ 12% per annum. His last drawn pay was Rs. 56.30 per day. Present minimum wages per day is Rs. 194. P. Vadeval similar permanent employee like Vellasamy was terminated on 1-2-2001. Petitioners were not absent from work. Hence principle of no work no pay is not applicable entitling them to full wages. Only after ID was raised Respondent came forward with a plea of giving employment under alternative site. Due to raising of ID, Management wanted to displace the petitioners. If Management had good intention of providing employment they should have called the petitioners to work in the same estate. Management did not really want to provide employment. Petitioners are ready to work at the same estate. Management may specify a date for the petitioners to report for work at the Yercaud Estate and not elsewhere. Hence the claim.

5. The averments in the separate Counter Statements but with common or the same averments in all, briefly read as follows :

Petitioners were neither dismissed, discharged or terminated. They did not report for work from 1-2-2001. At the Yercaud Granite Quarry Respondent employed 34 employees. Except Sri Chelliya, the other petitioners are permanent. Director of Mines and Safety directed to stop production for improving safety measures in the mines. On the basis of

Ministry's direction Respondent issued circular dated 1-2-2001 and informed all the workers regarding the stoppage of normal production work for 15 days for the development work i.e. reducing height of bench and formation of the benches further informing that production will resume after 15 days. Quarry work was accordingly stopped from 1-2-2001 to 15-2-2001. On humanitarian consideration, Respondent offered job to them at its sister concern situated adjacent to the quarry. Out of 34 workers, 25 reported for work in the sister concern, 7 employees did not report including the petitioners. The quarry was reopened on 16-2-2001 and a circular was issued on 15-2-2001 requesting employees to report for work. 28 workers only reported for work from 16-2-2001. Hence charge sheet was issued to them for not reporting for duty. In the meantime they raised ID alleging denial of employment from 1-2-2001. On 12-4-2001 Respondent issued letter to the petitioners to report for duty immediately but they did not. Respondent filed replies dated 14-3-2001 and 16-6-2001 reporting dispute raised as not maintainable and that they can report for duty immediately withdrawing the dispute. But they did not. Then Labour Commissioner dismissed the dispute as not maintainable. Thereafter under orders of the High Court the reference is caused to be made. Even before Labour Officer clearly held that the petitioners can report for work under the principle of no work no pay but they did not. As on date the petitioners are not terminated or dismissed from service. There is no violation of Section-25F, Section-25G and Section-25H or victimization, colourable exercise of power or arbitrariness. Petitioners are only casual employees. Petitioners' adamant claim for back wages was not acceptable to the Management. Question of conducting enquiry does not arise. Deceased petitioner's legal heirs are not entitled to back wages under the principle of no work no pay. Petitioners are not entitled to back wages and other benefits from 16-2-2001 during which they were unauthorizedly absent. The claims are to be dismissed.

5. Rejoinder Statement averments in a nutshell are as follows :

Petitioners will be entitled to wages from the date of disengagement till reinstatement.

6. Counter Statement averments to the Reply Statement briefly read as follows :

Based on the Counter Statement, Para-12 that even now petitioners can report for work, petitioners filed reply stating that they are ready to report for work. As per Writ Petition Affidavit Mr. Vadivel and Chelliya already attained superannuation. Hence they are not to be reinstated. Vellasamy expired. Kanagaraj in his

letter to the Respondent stated that in view of his new construction business he has left the service of the Respondent. Hence no question of providing employment to the petitioners arises.

7. Additional Counter Statement averments briefly read as follows :

There are quarries in Tamil Nadu at Kadukkambaram, Kakkambadi and Edappadi. At Kadukkambaram unit started in 1988 with government license renewed upto 7-6-2003 as per GO 3(d) No. 32 dated 20-5-1993 petitioners are working. License granted was for 7.7 acres in which the deposit area consists of 35 metres of breadth and 100 metres of length and all the three sides having public roads and other side covering respondent's coffee plantation. Beyond the area no mining can be carried out. Only 16 employees were employed for drilling. It is inadvertently mentioned as 35 in the earlier counter instead of 16. At Kadukkambaram already 30 metres of breadth had been quarried. Remaining area of 2.5 metres either side of the quarry is existing beyond which no quarry activity can be done as per government license. Under the Mines Act, 1952 for every 15 metres of depth mining, minimum of 5 metres of bench formation has to be given. On 31-1-2001 during the quarry work one drilling employee met with fatal accident due to slippery. Dy. Director of Mines (Mines Safety) after inspection on 1-2-2001 directed stopping of activity and strictly instructed as follows "The mines as per worked unsystematic manner without forming benches in proper way. The height of the bench on northeast site was about 20 : 25 metres and the site were not kept the benches or sloped. Under the conditions chances of site fall cannot be ruled out. Mine management were instructed not to start normal production before the sites are properly developed for permission of benches. The sites at working were found with full of loosen boulders monkey dangerously which the rolled down with bottom benches at any time. Agent and Manager are agreed not to deploy and person at bottom of quarry. The contravention mentioned above are not exhaustive. The letter giving the details of other contraventions observed may followed in due course". Immediately the activity was stopped on 1-2-2001. All the workers were given alternative work without change of the terms and conditions at the adjacent coffee plantation of the Respondent. Out of 16 workers, only 7 reported for work. 9 workers demanded work at the quarry only. Normally during rainy season for three months the workers are given work at plantation with same terms and conditions. The petitioners had already worked many times in the plantation. Letter dated 15-2-2001 received from Director of Mines the contents are as

follows "In view of the above observation it was revealed that the mine is being worked with will full disregard to provision of law and neglecting the life and safety of the person employed in the quarry". "You are therefore requested not to start the normal production till the sides are proper developed for formation of benches. The action taken to comply with the above serious violation may be intimated immediately". The above instructions were impossible of being carried out without transgression of license and encroaching public road and so the quarry was not carried out. The mining license also was not renewed after 7-6-2003. Then employment was given to workers at Kakkambadi, 5 kms. away from Kadukkambaram whereto petitioners did not come. Respondent has taken decision to give employment to workers at Kakkambadi which was also advised by the Assistant Commissioner of Labour (Central), which was not heeded leading Assistant Commissioner of Labour (Central) to hold that there is no termination. License lapsed in June 2003 and renewal was applied for. But no renewal has been given at Kadukkambaram. Hence there is no quarry activity since 2001. Petitioners are now gainfully engaged. Hence there is no question of paying back wages or any other benefits. They are not entitled to any relief.

8. The averments in the Common Additional Rejoinder Affidavit in a nutshell are as follows :

The additional counter can be taken on file provided there is an inspection of Gem Granites and the Management produces records and details pertaining to the number of employees employed. Management did not whisper that there was no work in the mines. Management has not mentioned how many employees are employed in the three quarries. There is functional integrity in the three quarries. No letter has been issued by the Management to provide employment at plantation. Management is willing to provide employment under plantation at Kakkambadi. The industry is covered by the Mines Act and the Central Government is the appropriate government. The plantation at Kakkambadi is covered by Plantation Labour Act and the appropriate government is State Government. So transfer cannot be made from Mines to Plantation. Transfer was not a issue/dispute. There is no office or place at Kakkambadi as per the Mines Act, the same being the objection to inspect Kakkambadi. When the work at Kadukkambaram came to a standstill is not stated. Till a month ago there was work at Kadukkambaram and now they have given a short break to project that there is no work at Kadukkambaram. Petitioners have no objection to the additional counter taken into file, the relevancy of averments therein can be

looked into only if Management produces the records as before in this additional rejoinder and agree for inspection. If not the averments in the additional counter may be ignored.

7. Points for consideration are :

- (i) Whether the claim for reinstatement of the petitioners into the service of the Respondent with back wages is just and legal ?
- (ii) To what relief the concerned workmen are entitled ?

8. The parties prayed to permit common evidence to be adduced and common trial held in respect of all the IDs viz. 39/2010, 20-23/2011 which was allowed and accordingly common evidence was recorded in ID 39/2010. Though petitioners were filing separate Claim Statements but with the same and common averments independently, the same were met by the Respondent by Separate Counter Statements but with the same or common averments. Petitioners and Respondent filed common Proof Affidavit in lieu of Chief Examination in all the IDs.

9. Common evidence consists of the testimony of WW1 viz. Muthusamy by way of Proof Affidavit in lieu of Chief Examination for all the petitioners also comprising evidence of individual cross-examination of each petitioner separately and Ex. W1 to Ex. W63 (subject to objection of other side that they are Xerox copies) and WW2 viz. V. K. Nallamuthu by way of Proof Affidavit in lieu of Chief Examination and Cross-Examination and Ex. W64 to Ex. W71 on the petitioner's side. On the Respondent's side evidence consists of the testimony of MW1 by way of Proof Affidavit in lieu of Chief Examination and Cross-Examination and Ex. M1 to Ex. M71.

Points (i) and (ii) :

10. Heard both sides. Perused the pleadings, records, evidence and documents on either side. Various decisions of the Apex Court and High Courts relied on by the Respondent have also been perused. Both sides argued in terms of their case in the respective pleadings. Prominent arguments on behalf of the petitioners are that though there was stoppage of work at the quarry from 1-2-2001 to 15-2-2001 in the wake of a fatal accident entailing in the death of a workman, it does not mean that the work stood stopped all the 15 days. Though as held by the Apex Court initial burden is on the petitioner to prove their case, Respondent has not produced any register or Attendance Register to show no work during the period. There was no charge sheet issued or an enquiry held admittedly. It was not put in black and white by the Respondent that the workers would be given work at Kakkambadi. That the workers absented from work or not reported for work is apt to be untrue. Absence from work is not synonymous to abandonment of work. If it is a case of closure of the

establishment petitioners are entitled to wages until compliance of Section-25F of the ID Act. During the period from 2001 petitioners have been out of employment. Though the Management is willing to give alternate employment i.e. not the fact in issue on hand. The stand of the Management has been that unless the case is withdrawn by the petitioners they would not be given employment. At the same time if they are ready to work the Management is prepared to give work at Kakkambadi. The non-employment of the workmen is not justified and they are entitled to reinstatement with back wages. It is nobody's case that the dispute is regarding transfer issue. Now the Respondent cannot build up a case of transfer as the controversy involved in the dispute. At Kakkambadi there is only plantation and no mine. That there is no functional integrity between two types of establishments has not been established by the Respondent. Only at a later stage employment is offered by the Management to the workers, that too on conditions which cannot be imposed. There is no documentary evidence to show that the establishment is completely closed down. The workman cannot be shifted to an establishment in relation to which State is the Appropriate Government. There is violation of Section-25F of the ID Act. Unless and until compensation is paid the petitioners are entitled to wages.

11. Contra arguments are that Section 2A of the ID Act is attracted only in a case of dismissal, discharge or termination. There is no termination the ID is not maintainable. Though the petitioners were offered employment at Kakkambadi unit petitioners were insisting for back wages to which the Respondent is not amenable. It is clear that there is no work at Kadukkambaram. The order of the Ministry of Labour and Employment Ex. M71 shows that the present instance is only one of transfer of employees and not termination at all. It is duty of the petitioners to obey the order first and thereafter the seek redressal of the grievance. Kadukkambaram unit almost being virtually wound up with no work or mining activity which is admitted by witness V. K. Nallamuthu examined as WW2, no reinstatement can be made there. There is no material to show any work being carried out at Kadukkambaram after 2001. As testified by Chelliya in Cross-Examination, there are only two employees working and they are at Kakkambadi site. Version of WW2 is that he has not visited Kadukkambaram quarry. That there has been full and final settlement of claim of all workers and they have left after May 2001 is not disputed. It is virtually admitted that there are no workers working at Kadukkambaram after May 2001. Ex. M2-License issued for the mining at the site was for a period of 10 years which expired in 2003. Though renewal was applied for the same has not been granted yet. There occurred fatal accident at Kadukkambaram site on 31-1-2001 and the Dy. Director of Mines instructed not to start normal production. Ex. M7-Circular was issued to workers specifying to resume to

work after 15 days. There was Ex. M8-Circular issued requesting to report for duty from 16-2-2001. If the petitioners were actually terminated necessity of issuing charge sheet does not arise. Respondent was offering employment at Kakkambadi under a bonafide approach on humanitarian consideration, which is not an instance of victimization. Distance between Kadukkambaram and Kakkambadi is 10 kms. The petitioners refused to join. Most of the petitioners having reached superannuation, for that reason perse, they are not entitled to be reinstated. Petitioner, Vellaisamy expired. Kanagaraj is only casually employed. Petitioners are prepared to join duty even now. Grant of back wages is not automatic. Petitioners virtually admitted that Respondent offered employment though at some other place. There is no denial of employment when there is no work at the existing unit. Work offered at Kakkambadi when not accepted as an alternative of the cessation of work at the present area a case of termination is not attracted. Petitioners never put forth any readiness to report for work without prejudice to the claim for back wages or at any place from which there was effected cessation of their work. If the employer is unable to give work at a particular place this Court cannot order reinstatement. When the mine license ceased to be renewed after the expiry of the previous license the mining activity cannot be carried out. Petitioners have no case that Kakkambadi is not a mining site. There is no motive or any other reason for victimizing the petitioners. There is no termination at all. The petitioners did not turn up for work. Charge sheet was issued in the meantime of which dispute was raised by the petitioners where after no further action was pursued. The attitude of the petitioners was obstinate to the stand of the Management.

12. Reliance was placed on behalf of the Respondent to the decisions of the Apex Court and other High Courts. In the decisions in :

- **SONAL GARMENTS VS. TRIMBAK SHANKAR KARVE** (2003-1-LLN-91) the Hon'ble High Court of Bombay held "Reinstatement – Industrial Court set aside order of termination of workman and ordered reinstatement with back-wages – Employer's offer for reinstatement in writing ignored by workman – Held, whenever employer offers to reinstate workman at any stage of the dispute and the same is not accepted even without prejudice to his rights, he will not be entitled to continue his claim for reinstatement or for his claim for back-wages from the date of such offer – Award of Labour Court quashed".
- **DISTRICT RED CROSS SOCIETY VS. BABITA ARORA AND OTHERS** (MANU-SC-3276-2007) Supreme Court held "The position in law is, therefore, well settled that if the entire establishment of the employer is not closed down but only a unit or undertaking is closed down which has no functional integrity with other units or undertaking, the provisions of Section-25FFF of the Act will get attracted and the workmen are only entitled to compensation as provided in Section-25FFF of the Act which has to be calculated in accordance with Section-25F of the Act. The Tribunal and also the High Court clearly erred in holding that as other units of the appellant Red Cross Society like Drug De-Addiction-cum-Rehabilitation Centre, Family Planning Centre and Viklang Kendra were functioning, the termination of the respondent would amount to the retrenchment. The Maternity Hospital was functioning as a distinct entity. It was not receiving any grant from the Government and was being run entirely on charitable basis from donations received from public. Due to financial stringency, the Maternity Hospital had to be closed down. The other three units, viz. Drug De-Addiction-cum-Rehabilitation Centre, Family Planning Centre and Viklang Kendra are receiving grants from government and are functioning as separate entities and the mere fact that they have not been closed down, cannot lead to the inference that the termination of services of the respondent was by way of retrenchment which was illegal on account of non-compliance of the provisions of Section-25F of the Act".
- **MOUNT METTUR PHARMACEUTICALS LTD. VS. SECOND ADDITIONAL LABOUR COURT, MADRAS AND ANOTHER** (1985-II-LLJ-505) the Hon'ble High Court of Madras held "Mere violation of Section-25F cannot result in reinstatement with back wages and in such cases where retrenchment is bonafide and justified, compensation in lieu of reinstatement would be proper exercise of discretion".
- **M/s Bharat Iron Works Vs. Bhagubhai Balubhai Patel and Others** (AIR-1976-SC-98) Supreme Court held : 8. "It is apparent that victimization may partake a various types, to cite one or two only, for example, pressurizing an employee to leave the union or union activities; treating an employee unequally or in an obviously discriminatory manner for the sole reason of his connection with union or his particular union activity; inflicting a grossly monstrous punishment which no rational person would impose upon an employee and the like. 9. A word of caution is necessary. Victimization is a serious charge by an employee against an employer, and, therefore, it must be properly and adequately pleaded giving all particulars upon which the charge is based to enable the employee to fully meet them. The charge must not be vague or indefinite being as it is an amalgam of facts as well as inferences and attitudes".

- METROPOLITAN TRANSPORT CORPORATION VS. V. VENKATESAN (In Civil Appeal No. 5167 of 2009 dated 7-8-2009) Supreme Court held "18. Coming back to back wages, even if the court finds it necessary to award back wages, the question will be whether back wages should be awarded fully or only partially (and if so the percentage). That depends upon the facts and circumstances of each case. Any income received by the employee during the relevant period on account of alternative employment or business is a relevant factor to be taken note of while awarding back wages, in addition to the several factors mentioned in Rudhan Singh and Uday Narain Pandey. Therefore, it is necessary for the employee to plead that he was not gainfully employed from the date of his termination. While an employee cannot be asked to prove the negative, he has to at least assert on oath that he was neither employed nor engaged in any gainful business or venture and that he did not have any income. Then the burden will shift to the employer. But there is, however, no obligation on the terminated employee to search for or secure alternative employment".
 - P. B. PHADKE, PROPRIETOR OF T. VIKRAM ELECTRICALS, PUNE VS. GYANESHWAR – VIRANKAR (2008-4-LLN-728) the Hon'ble High Court of Bombay held "Back-wages – grant of – Legality – Respondent, a helper, appointed for six months, was terminated from service – Labour Court held termination to be illegal and passed an award directing reinstatement with continuity of service and back-wages – Hence this writ petition by petitioner-employer – Held, respondent did not join duty in spite of letters from petitioner – That would show that he was not in need of employment or in any case he was well placed monetarily – Considering this fact, the order of reinstatement is confirmed but without back-wages".
 - ADDISSON PAINTS AND CHEMICALS LTD. VS. WORKMEN REPRESENTED BY SECRETARY (A.P. AND C.) ASSISTANT'S ASSOCIATION AND ANOTHER (2001-2-SCC-289) Supreme Court held "A. Labour Law – Back Wages – Order directing payment of, for the period employee concerned had not worked – Held, was not liable to be interfered with – Award of 25% of back wages by High Court, despite the employee concerned refusing to accept the transfer order and not reporting for duty after his transfer, held, was within the discretion of the court. B. Labour Law – Misconduct – Refusal to report for duty upon transfer – Even where workman disputed his transfer to a non-workman category, he was obliged to report for duty – The dispute could be raised even after joining duty – Employee cannot refuse transfer order – Transfer – Refusal to comply with transfer order – Effect."
 - STATE OF PUNJAB VS. JAGIR SINGH (2004-4-ILN-739) Supreme Court held "1. Industrial Dispute Act, 1947, SS. 25F and 25N – Punjab Civil Services (Punishment and Appeal) Rules, 1970, rules 5 and 8 – Punjab Civil Services Rules, 1953, rule 3.25 – Termination of service on ground of misconduct – If termination of services was for misconduct, question of payment of any retrenchment compensation or service of any statutory notice would not arise – Question of compliance of provisions of S.25F of the Industrial Disputes act arises when services of concerned workman were terminated on ground other than misconduct".
 - BHARAT HEAVY ELECTRICALS LTD. VS. ANIL AND OTHERS (2000-1-LLJ-619) Supreme Court held "There is a difference between an individual dispute which is deemed to be an industrial dispute under Section 2-A of the said 1947 Act on one hand and an industrial dispute espoused by the union in terms of Section-2(1) of the said 1947 Act. An individual dispute which is deemed to be a industrial dispute under Section 2-A concerns discharge, dismissal, retrenchment or termination whereas an industrial dispute under Section-2(1) covers a wider field. It includes even the question of status. This aspect is very relevant for the purposes of deciding this case. In the case of Radhey Shyam and Another v. State of Haryana and another 1998-11-KKJ-1217 (P & H) it has been held after considering various judgments of the Supreme Court that, Section 2-A contemplates nothing more than to declare an individual dispute to be an industrial dispute. It does not amend the definition of industrial dispute set out in Section-2(k) of the Industrial Disputes Act, 1947 [which is similar to Section-2(1) of the said 1947 Act]. Section 2-A enables the individual workers to raise an industrial dispute, notwithstanding, that no other workmen or union is a party to the dispute. Section 2-A applies only to disputes relating to discharge, dismissal, retrenchment or termination of service of an individual workman. It does not cover other kinds of disputes such as bonus, wages, leave facilities etc."
13. On an overall assessment of the entire facts and circumstances I am led to conclude that the case of the petitioners stands on a better edifice in view of the probabilities that preponderate in favour of them. Though a fatal accident occurred at the disputed mine resulting in the death of a workman on 31-1-2001 and thereafter from 1-2-2001, for that reason, the production was being postponed by 15 days with no work for the workmen, the manner in which the said factum was conveyed to the

workmen to refrain from coming to work and to resume work after 15 days is not in expressed and clear terms so as to clearly convey the idea to the workmen as to how they have to act. There is no evidence of the work having been stopped totally for all the 15 days. The case of the petitioner is that the work still continued thereafter which is not rebutted by the Respondent by producing any register or documents to prove the contra. Though there was proposal for providing alternate employment it is admittedly not put to the workmen on notice in writing. Here it is not a case of complete closure of establishment evidently. The Management is proved to have had a stand that must the workers be re-employed the case already started should be withdrawn. Even the offer of employment elsewhere was made by the Management at a later stage and that too on condition as mentioned above. The argument on behalf of the Respondent that there is no termination is not apt to be true. It is not a clear case that there has not been any work at Kadukkambaram especially at least till the date of expiry of the license viz. 7-6-2003. Though by now, at this distance of time Kadukkambaram unit might almost have been virtually wound up with no work or mining activity the same may not be the situation until 7-6-2003. True there is no case for the petitioners that the license at Kadukkambaram unit stands renewed even after 2003. There is no proof of Ex. M7 to Ex. M8 – Circulars having come to the live notice of the workmen so as to sufficiently alert them of the stoppage of work w.e.f. 1-2-2001 till 15-2-2001 and their duty to resume work specifically on 16-2-2001 because they were not personally served on the workmen. Admittedly they were only orally informed. Such an information cannot normally instill in them the full particulars of the information according to which they are to act or react. The said notice cannot be said to be an effective notice to be a notice in the true sense of the term. That the workmen were clinging for payment of back wages and reinstatement at the same site from which they stopped work and were not willing to join the alternate site, though may be true, for such stand the petitioners cannot be attributed of taking obstinate and non-cooperative stand to the Management. Though the work at the site in question cannot be continued for non-renewal of the license after 7-6-2003 there is no reason for denial of employment to the workmen at least on and after 16-2-2002 and until 7-6-2003. If the case that there is no work at the site is true that is appropriate to be true only after 7-6-2003, the date of the expiry of the license. If the petitioners being not prepared to work at another site or stood for claim of back wages, they are not much to blame.

14. In the case of P. Chelliya and R. Krishnan they were seen terminated w.e.f. 1-1-2001. As stated by them no rhyme or reason is found forthcoming why they were terminated. Their termination is without compliance of Section-25F of the ID Act. Admittedly it is also without holding enquiry after issuance of any show cause or framing

any charge. All these petitioners submitted representations before the Management for redressal of their grievance which were not heeded then and there whereupon they raised the Industrial Dispute. There is no reason why Section-2A of the ID Act is not applicable to the case which is evidently an instance of termination. So it is only to be said that the ID is maintainable. If it is a case of termination there is no reason why Respondent is not liable for payment of back wages, though the same is not automatic Ex. M-7 Letter of the Government, from the recital couched in it, is seldom apt to convey the idea that the arraigned affair is an incidence of transfer. That the dispute is one of transfer is nobody's case. Absence and abandonment of service are not synonymous. The absence of the workers from work was as the effect of a cause emanated from the Management indicating stoppage of work at quarry from 1-2-2001 consequent on the fatal accidents occurred on 31-1-2012. It is pleaded by the petitioners that there is victimization, arbitrariness and mala fides in bringing about their termination amounting to legal victimization. But that aspect does not stand established in absence of particulars to constitute the same in the pleadings and proof. It is not proved by the Respondent that there is no functional integrity with their other units or undertaking to attract Section-25FFF of the ID Act. The case on hand does not appear to be one of a bona fide and justified termination amounting to retrenchment in which case compensation or reinstatement is to be given though the latter one is not to be automatic but depends upon discretion on the evaluation of facts and circumstances of each particular case. In the determination of the quantum again has to depend upon the facts and circumstances of each case. Income derived during the relevant period otherwise is a relevant factor to be taken note of to decide the quantum whether back wages should be awarded fully or only partially. In appropriate cases where a demand to join duty is refused back wages is only to be denied if there is reason to hold that the refusal was on account of his being not in need of employment or due to his being well-placed. Regarding payment of back wages for the period the employees concerned had not worked is also not liable to be interfered with in appropriate cases say such as award of 25% of back wages even if there is refusal to report for duty upon a transfer.

15. At the instance of the petitioners on a move by a memo for local inspection invoking Rule-23 of the Industrial Disputes (Central) Rules, 1957, with the approval of the Respondent a visit to the relevant sites was made by the Tribunal on 9-6-2012 and the observations and statements obtained from persons present there relating to the business sites were reduced to writing in a Memorandum of Inspection, not intended to form part of evidence but to form part of records and usable for appreciation of facts or evidence to the extent reliable on a total appreciation of the facts, materials as guiding factors as far as acceptable.

16. The case on hand attracts an instance of termination from service in violation of Section-25F of the ID Act except in the case of petitioners P. Chelliya and R. Krishnan in whose cases also the same amounts to termination which is in the wake of misconduct regarding which admittedly no show cause notice or charge sheet was issued or was any enquiry held which is illegal and perse void being in violation of the principles of natural justice too. Though in their case violation of Section-25F is not there, there is violation of principles of natural justice for not holding enquiry whereby the termination is rendered void. The case on hand evidently is not a case of transfer. The termination is in violation of Section-25F of the ID Act for non-issuance of notice, notice pay or compensation prescribed thereunder. Therefore, the termination from services of all the petitioners is not just and legal. The same is set aside.

17. Coming to the relief, the question is whether the setting the termination aside should follow an order for reinstatement or payment of compensation? As is well said a reinstatement is not to be automatic on the setting aside of the termination of a given employee. It is to depend upon the facts and circumstances of each case. In the case on hand evidently there is no license for the mining activity after 7-6-2003. The mining site is almost nearing exhaustion to given much more output of granite products. The work at the site has become scanty if not nil. The attempt of the Management while may be to provide employment at alternate sites, which is for that reason too in some way, cannot be discountenanced in that perspective as well. Therefore what is attracted is payment of compensation. Then the question is what shall be the quantum? Let all the workmen receive compensation payable as provided under Section-25F(b) of the ID Act, 1947, that is to say compensation which shall be equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess of 6 months, Sankaraye, Wife of the deceased petitioner, Vellaisamy will also be entitled to get the above compensation. The whole amount has to be paid within a month's time from the date of the publication of the award in the gazette failing which workmen would be entitled to get interest @ 12% per annum from that date till date of payment.

18. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 25th July, 2012).

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/ : WW1, Sri N. Muthusamy
Petitioner : WW2, Sri V.K. Nallamuthu

For the 2nd Party/ : MW 1, Sri A. Prabhakaran
Respondent

Documents Marked :

On the Petitioner's side

Ex. No.	Date	Description
Ex. W1	26-02-2001	Representation of the petitioner.
Ex. W2	—	Cover containing the representation of the petitioner.
Ex. W3	28-03-2001	Industrial Dispute.
Ex. W4	24-09-2001	Management reply filed before the Conciliation Officer.
Ex. W5	27-10-2001	Reply statement filed before the conciliation Officer by Kanagaraj.
Ex. W6	02-01-2011	Representation of the petitioner.
Ex. W7	—	Cover containing the representation of the petitioner.
Ex. W8	29-01-2001	Industrial Dispute.
Ex. W9	28-03-2001	Representation of the petitioner.
Ex. W10	19-03-2001	Management's letter.
Ex. W11	10-04-2001	Representation of the petitioner.
Ex. W12	16-06-2001	Management reply filed before the Conciliation Officer.
Ex. W13	—	Wage Slips for P. Chelliya.
Ex. W14	26-02-2001	Representation of the petitioner.
Ex. W15	—	Cover containing the representation of the petitioner.
Ex. W16	28-03-2001	Industrial Dispute.
Ex. W17	12-04-2001	Management's letter.
Ex. W18	21-04-2001	Reply of the petitioner.
Ex. W19	24-09-2001	Management reply filed before the Conciliation Officer.
Ex. W20	23-10-2001	Reply statement filed before the Conciliation Officer by Vellaisamy.
Ex. W21	—	Wage Slips for M. Vellaisamy.
Ex. W22	26-02-2001	Representation of the petitioner.

Ex. No.	Date	Description	Ex. No.	Date	Description
Ex. W23	—	Cover containing the representation of the petitioner.	Ex. W44	23-10-2001	Reply Statement filed by the petitioner before the Regional Labour Commissioner (Central), Chennai.
Ex. W24	13-03-2001	Industrial Dispute.	Ex. W45	22-02-2002	Conciliation Failure Report.
Ex. W25	12-04-2001	Management's letter.	Ex. W46	—	Wage Slips for Muthusamy.
Ex. W26	21-04-2001	Reply of the petitioner.	Ex. W47	26-02-2001	Representation of the petitioner.
Ex. W27	24-09-2001	Management reply filed before the Conciliation Officer.	Ex. W48	—	Returned cover containing the representation of the petitioner.
Ex. W28	23-10-2001	Reply statement filed before the conciliation officer by Vellaisamy.	Ex. W49	13-03-2001	Industrial Dispute.
Ex. W28A	18-07-1997	Settlement under Section 12(3) of the ID Act, 1947.	Ex. W50	12-04-2001	Management's letter.
Ex. W29	26-02-2001	Representation of the petitioner.	Ex. W51	21-04-2001	Reply of the petitioner with acknowledgement.
Ex. W30	—	Returned cover containing the representation of the petitioner.	Ex. W52	24-09-2001	Counter Statement filed by the management before the Labour Enforcement Officer (Central), Salem.
Ex. W31	13-03-2001	Industrial Dispute.	Ex. W53	23-10-2001	Reply Statement filed by the petitioner before the Regional Labour Commissioner (Central), Chennai.
Ex. W32	12-04-2001	Management's letter.	Ex. W54	22-02-2002	Conciliation Failure Report.
Ex. W33	21-04-2001	Reply of the petitioner with acknowledgment.	Ex. W55	02-01-2001	Representation of the petitioner.
Ex. W34	24-09-2001	Counter Statement filed by the management before the Labour Enforcement Officer (Central), Salem.	Ex. W56	—	Returned cover containing the representation of the petitioner.
Ex. W35	23-10-2001	Reply statement filed by the petitioner before the Regional Labour Commissioner (Central), Chennai.	Ex. W57	29-01-2001	Industrial Dispute.
Ex. W36	22-02-2001	Conciliation Failure Report.	Ex. W58	19-03-2001	Management's letter.
Ex. W37	—	Wage Slips for Kandasamy.	Ex. W59	28-03-2001	Reply of the petitioner with acknowledgement.
Ex. W38	26-02-2001	Representation of the petitioner.	Ex. W60	03-04-2001	Petitioner letter with acknowledgement.
Ex. W39	—	Returned cover containing the representation of the petitioner.	Ex. W61	12-04-2001	Management's letter.
Ex. W40	13-03-2001	Industrial Dispute.	Ex. W62	21-04-2001	Reply of the petitioner with acknowledgement.
Ex. W41	12-04-2001	Management's letter.	Ex. W63	22-02-2002	Conciliation Failure Report.
Ex. W42	21-04-2001	Reply of the petitioner with acknowledgement.	Ex. W64	26-02-2001	Original postal cover unopened containing the representation. RL 880 showing refusal by the management. The post sent on 27-02-2001.
Ex. W43	24-09-2001	Counter Statement filed by the management before the Labour Enforcement Officer (Central), Salem.			

Ex. No.	Date	Description	Ex. No.	Date	Description
Ex. W65	02-01-2001	Original postal cover un-opened containing the representation. RL 1869 showing refusal by the management.	Ex. M6	01-02-2001	Inspection Report given to Dy. Director of Mines.
Ex. W66	26-02-2001	Original postal cover un-opened containing the representation. RL 884 showing refusal by the management. The post sent on 27-02-2001.	Ex. M7	01-02-2001	Circular issued by the Respondent put up in the notice board stopped the production.
Ex. W67	26-02-2001	Original postal cover un-opened containing the representation. RL 879 showing refusal by the management. The post sent on 27-02-2001.	Ex. M8	15-02-2001	Circular put up by the 2nd Opposite Party.
Ex. W68	26-02-2001	Original postal cover un-opened containing the representation. RL 882 showing refusal by the management. The post sent on 27-02-2001.	Ex. M9	15-02-2001	Letter issued by the Director of Mines and Safety.
Ex. W69	26-02-2001	Original postal cover un-opened containing the representation. RL 883 showing refusal by the management. The post sent on 27-02-2001.	Ex. M10	20-01-2001	Show Cause Notice issued by the 2nd Opposite Party to the petitioner.
Ex. W70	26-02-2001	Original postal cover un-opened containing the representation. RL 881 showing refusal by the management. The post sent on 27-02-2001.	Ex. M11	29-01-2001	2A petition filed by Mr. P. Chellaiah by the 2nd Opposite Party.
Ex. W71	02-01-2001	Original postal cover un-opened containing the representation of Krishnan. RL 1868 showing refusal by the management.	Ex. M12	19-03-2001	Letter issued to Mr. P. Chellaiah by the 2nd Opposite Party.
On the Management's side			Ex. M13	28-03-2001	Letter issued by the Mr. P. Chellaiah to the 2nd Opposite Party.
Ex. No.	Date	Description	Ex. M14	10-04-2001	Letter issued by the Shevaroyas General Employees Union to the Respondent.
Ex. M1	20-05-1993	License issued by the Government.	Ex. M15	12-04-2001	Letter issued to Mr. P. Chellaiah by the Respondent.
Ex. M2	06-12-1993	Letter from the Government to the 2nd Opposite Party and Quarry Sketch.	Ex. M16	16-06-2001	Reply filed by the 2nd Opposite Party to the Labour Officer.
Ex. M3	—	Quarry Plan.	Ex. M17	20-04-2003	Affidavit of P. Chellaiah in WP No. 13391 of 2003.
Ex. M4	07-06-2002	Renewal application for extension of licenses.	Ex. M18	26-02-2001	Letter issued by Mr. A. Kanagaraj to the 2nd Opposite Party.
Ex. M5	2001	Settlement copies of the co-workers.	Ex. M19	19-03-2001	Show Cause Notice issued by the 2nd Opposite Party to Mr. A. Kanagaraj.
			Ex. M20	28-03-2001	Letter issued by Mr. A. Kanagaraj to the 2nd Opposite Party.
			Ex. M21	10-04-2001	Letter issued by the Shevaroyas General Employees Union to the 2nd Opposite Party.
			Ex. M22	12-04-2001	Letter issued by the 2nd Opposite Party to A. Kanagaraj.

Ex. No.	Date	Description	Ex. No.	Date	Description
Ex. M23	28-03-2001	2A petition filed by Mr. A. Kanagaraj before the Labour Officer.	Ex. M40	21-04-2001	Letter issued by Mr. P. Vadivel to the Respondent.
Ex. M24	18-05-2001	Reply filed by the 2nd Opposite Party to the Regional Labour Commissioner (Central).	Ex. M41	13-03-2001	2A petition filed by Mr. Vadivel to the Respondent with acknowledgement.
Ex. M25	24-09-2001	Counter filed by the 2nd Opposite Party before the Labour Enforcement Officer (Central) Salem.	Ex. M42	24-09-2001	Counter filed by the Respondent before the Labour Enforcement Officer (Central) Salem.
Ex. M26	—	Quotation given by Mr. A. Kanagaraj for doing the civil work to the 2nd Opposite Party plantation.	Ex. M43	—	Affidavit of P. Vadivel in WP No. 13393 of 2003.
Ex. M27	26-02-2001	Letter issued by the Mr. M. Vellaisamy to the Respondent.	Ex. M44	19-03-2001	Show Cause Notice issued to the Mr. P. Kandasamy by the Respondent.
Ex. M28	19-03-2001	Show Cause Notice issued to Mr. M. Vellaisamy.	Ex. M45	28-03-2001	Letter issued by Mr. P. Kandasamy to the Respondent.
Ex. M29	28-03-2001	Letter issued by Mr. M. Vellaisamy to the Respondent.	Ex. M46	10-04-2001	Letter issued by the Shevaroyas General Employees Union to the Respondent.
Ex. M30	10-04-2001	Letter issued by the Shevaroyas General Employees Union to the Respondent.	Ex. M47	12-04-2001	Letter issued to P. Kandasamy by the Respondent with acknowledgement card.
Ex. M31	12-04-2001	Letter issued to Mr. M. Vellaisamy by the Respondent with acknowledgement card.	Ex. M49	24-09-2001	Counter filed by the Respondent before the Labour Enforcement Officer (Central) Salem.
Ex. M32	13-03-2001	2A petition filed Mr. M. Vellaisamy to the Labour Officer.	Ex. M50	—	83—Yercaud Assembly Voter List.
Ex. M33	24-09-2001	Counter filed by the Respondent before the Labour Enforcement Officer (Central), Salem.	Ex. M51	19-03-2001	Show Cause Notice issued to N. Muthusamy by the Respondent.
Ex. M34	—	83 —Yercaud Assembly Voter List.	Ex. M52	28-03-2001	Letter issued by M.N. Muthusamy to the Respondent.
Ex. M35	26-02-2001	Letter issued by the Mr. P. Vadivel to the Respondent.	Ex. M53	10-04-2001	Letter issued by the Shevaroyas General Employees Union to the Respondent.
Ex. M36	19-03-2001	Show Cause notice issued to Mr. P. Vadivel.	Ex. M54	12-04-2001	Letter issued to Mr. N. Muthusamy by the Respondent with acknowledgement card.
Ex. M37	28-03-2001	Letter issued by Mr. P. Vadivel to the Respondent.	Ex. M55	13-03-2001	2A petition filed by N. Muthusamy before Assistant Labour Commissioner (Central).
Ex. M38	10-04-2001	Letter issued by the Shevaroyas General Employees Union to the Respondent.			
Ex. M39	12-04-2001	Letter issued to Mr. P. Vadivel by the Respondent.			

Ex. No.	Date	Description
Ex. M56	24-09-2001	Counter filed by the Respondent before the Labour Enforcement Officer (Central) Salem.
Ex. M57	19-03-2001	Show Cause Notice issued to Mr. M. Myilvahanan by the Respondent.
Ex. M58	28-03-2001	Letter issued by Mr. M. Myilvahanan to the Respondent.
Ex. M59	10-04-2001	Letter issued by the Shevaroyas General Employees Union to the Respondent.
Ex. M60	12-04-2001	Letter issued to Mr. M. Myilvahanan by the Respondent with Acknowledgment Card.
Ex. M62	24-09-2001	Counter filed by the Respondent before the Labour Enforcement Officer (Central) Salem.
Ex. M63	—	83—Yercaud Assembly Voter List.
Ex. M64	20-01-2001	Show Cause Notice issued to Mr. R. Krishnan by the Respondent.
Ex. M65	19-03-2001	Letter issued to Mr. R. Krishnan by the Respondent.
Ex. M66	28-03-2001	Letter issued by Mr. R. Krishnan to the Respondent.
Ex. M67	10-04-2001	Letter issued by the Shevaroyas General Employees Union to the Respondent.
Ex. M68	12-04-2001	Letter issued to Mr. R. Krishnan by the Respondent.
Ex. M69	16-06-2001	2nd Opposite Party letter issued to Regional Labour Commissioner.
Ex. M70	22-02-2002	Conciliation Proceedings Report.
Ex. M71	17-02-2003	Government of India letter issued to the Respondent.

नई दिल्ली, 27 अगस्त, 2012

का.आ. 2958.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सिविल एविएशन ट्रेनिंग कालेज बामरोली के प्रबंधन के संबद्ध नियोजकों और

उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 25/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-07-2012 को प्राप्त हुआ था।

[सं. एल-11012/13/2001-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th August, 2012

S.O. 2958.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2001) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Civil Aviation Training College, (Bamrauli) and their workman, which was received by the Central Government on 31-07-2012.

[No. L-11012/13/2001-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SRI RAM PARKASH, PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Disputes No. 25 of 2001

Between

Sri Mohan Lal Prajapati,
S/o Sh. Raja Ram,
Village Lodhpur Post Noorpur,
District Kaushambi,
Allahabad

AND

Civil Aviation Training College,
The Principal, Bamrauli,
Allahabad

AWARD

1. Central Government Mol New Delhi vide notification No. L-11012/13/2001/IR(M) dated 31-10-01 has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Civil Aviation Training College, Bamrauli, Allahabad, in terminating the services of Sri Mohan Lal Prajapati with effect from 01-09-1999 is justified? If not to what relief the workman is entitled?

3. Brief facts of the case are.

4. That the claimant was appointed by the opposite party with effect from 01-09-94 and continued to be in service upto 31-08-99. It is stated that the services of the claimant were illegally terminated with effect from 01-09-99 by verbal order of the officer of the opposite party. It is further alleged that the provisions of Section 25N and 25F of Industrial Dispute Act were not complied with at the time of termination of the services of the complainant. No notice pay or notice pay was paid to the claimant at the time of termination of his services; therefore, the termination of the service is illegal and non compliance of the said Act. The work and conduct of the claimant was exemplary and no charge sheet or warning was issued by the opposite party during his employment.

5. The work of maintenance and repair of electrical instruments installed all over the complex of the opposite party is of permanent nature and work and the maintenance and looking after the electric sub-station was done round the clock. The claimant along with others was engaged by the opposite party for the regular maintenance and repairs of all sorts of electrical equipments and instruments i.e., Bulbs, Tubes, Switches, Board Fans, Coolers, Heaters, Geyser, Air Conditioner Equipments etc. and the complainant was also required to maintain a diary in which the complaints are noted and after rectification of the complaint signatures of the officers and staff of the opposite party obtained as a token of work done by the complainant. The work done by the complainant was also entered in the complaint register and this complaint register was checked by the officers of the opposite party from time to time. The complainant also lodged that he continued to work about 5 years under the direct control and supervision of the opposite party but his wages were paid through different labour suppliers from time to time to deprive the claimant from his legal right and even he was not paid minimum wages fixed under the minimum wages Act. Therefore, the aforesaid arrangement of the opposite party was nothing but a camouflage. The claimant has worked for more than 240 days of service preceding one year from the termination of his service. It is further alleged by the claimant that due to filing of writ petition no. 44675 of 99 for pressing the legal rights the opposite party became annoyed and terminated the services of the workman with effect from 01-09-1999.

6. On the basis of above pleadings it has been prayed that the action of the management be declared as unjust and unfair and he be directed to be reinstated in the service of the opposite party with full back wages and continuity of service also together with all consequential benefits.

7. Opposite party filed written statement on affidavit refuting the claim of the claimant on a number of grounds. By way of preliminary objection it has been stated that the terms of reference of the instant case has been framed on

the presumption made by the appropriate government that there was relationship of employer and employee between the parties. It is also alleged that the Hon'ble High Court in CMWP No. 53702 of 1999 vide order dated 24-10-2000 has observed that the only dispute between the parties is whether the petitioners are the employees directly of the authority or they are employees of contractor engaged by him (contractor) for doing work. The question is a disputed question of fact and can be done into in appropriate proceedings by the labour court. In view of this it would be appropriate that the petitioners may be permitted to raise the industrial dispute before the appropriate authority but the claimant has not raised any dispute till the date.

8. On merit of the case it is alleged that the claimant was never employed/appointed by the opposite party. The opposite party had awarded the contract to different firms from time to time by call of tenders. The payment for the said works was also made to the contracting agency. The contractor has deputed their different persons from time to time to execute the work. Various documents were required to be maintained by the contracting agency during the currency of the contract. Therefore, the documents mentioned by the claimant are not required to be maintained by the opposite party hence the said documents are not available with the office of the opposite party. It is also alleged that the opposite party had not made any payment to the claimant/applicant and whatever payment were made that was made to the contracting firm to whom the contract was awarded for execution of work. It is also pleaded that the claimant was never been appointed or his services were terminated by the opposite party hence it is not in the knowledge of the opposite party whether the provisions of Section 25-N and 25-F of Industrial Disputes Act, 1947, were complied with by the immediate employer of the claimant or not and hence the contents of Para under reply are not admitted. It is not in the knowledge of the opposite party that whether his immediate employer had given him any notice or notice pay at the time of his alleged termination services or not. The master and servant relation with the contracting agency and the claimant deputed by the said Agency, and all such liabilities rest with the said agency and not upon the opposite party. In rest of the paragraphs of the written statement the opposite parties has relied upon various rulings of the Hon'ble Supreme Court which at this stage is not considered to be reproduced and the same will be discussed at the time of appreciating the evidence of parties. Under the facts and circumstances of the case the claim of the claimant is liable to be rejected.

9. Whereas the workman has filed affidavit in evidence and apart from it he himself has produced in witness box as w.w. 1. Along with affidavit the claimant has also filed photocopy annexure 1 which is annual maintenance of external and internal electrical installations at the office of the opposite party.

10. Heard and perused the record.

11. It is a case where opposite party has not adduced any oral evidence in support of their pleadings.

12. Claimant has specifically stated on oath that he was appointed/engaged on 01-09-94 in Civil Aviation Training College, Allahabad, and he worked there up to 31-08-99. When he went to the office on 01-09-99 but he was not permitted to work. It is admitted by him that he was not given any appointment letter as well as termination letter. He stated that he worked there continuously as an electrician. When he was removed he was neither paid any notice pay, notice or retrenchment compensation.

13. He stated that there used to be maintained a complaint register there were 9 blocks and his work was being supervised by the junior engineer. His attendance was being recorded by junior engineer. He was paid wages by the office. To enter inside a token pass was issued. He has filed a copy of pass issued by the opposite party, though it does not contain any stamp. He stated that whatever the work was being allotted to him he used to maintain his diary. He has filed certain diaries that are works diary with effect from 01-06-95 to 31-08-99. In the cross-examination he has stated that it does not contain the signature of JE.

14. I have examined the relevancy and evidentiary value of these documents, though there are certain lacking, still it has not its evidentiary value because these diaries were being maintained by the workman in a regular routine manner and opposite party has not adduced any oral evidence to rebut this evidence. Simply putting a question in the cross-examination that these are the forged documents will not give weightage to the contention of the opposite party unless a statement is given by the opposite party on oath. These diaries are from paper No. 10/1 Ka to 10/1 Cha.

15. It has been contended by the authorized representative for the workman that the matter has also gone to the Hon'ble High Court for the regularization of 10 employees including the claimant. They have filed the documents and the judgment of the Hon'ble High Court, Allahabad. They have drawn my attention towards the observations made by the Hon'ble High Court in its judgment dated 24-10-2000, which is paper No. 12/9-13. At page no. 2 there is a finding as well as observation of the Hon'ble High Court that it is also not disputed between the parties that the petitioner are workman. The only dispute between the parties is whether the petitioners are the employees directly of the authority or they are employees of the contractor engaged him (contractor) for done work. This question is a disputed question of fact and can be gone into in appropriate proceedings by a labour court.

16. Therefore, the point to be decided is whether there exist relationship of employer and employee between the management and the claimant.

17. On this point claimant has specifically stated on oath that he was never recruited or engaged by any contractor. No contractor ever came to supervise his work. On this point I would like to say now the burden shifts upon the opposite party that the workman was engaged through a contractor. But the opposite party has not produced any cogent evidence either oral or documentary which may indicate that the workman was engaged through a contractor as alleged by them in their pleadings. They have failed to prove this fact.

18. The claimant has placed his reliance upon a decision 2008 (117) FLR 819 Gujarat High Court, in between Agriculture Produce Market Committee and Bhandari Dhiru Bhai Narsingh Bhai. It is held that pleadings are required to be proved and substantiated by the party by producing necessary evidence; pleading cannot take place of evidence.

19. Similarly it is held that no limitation has been prescribed under the act, dispute has to be raised within a reasonable period.

20. Therefore, considering the principle laid down by the Hon'ble High court the claimant is also entitled to get relief in the present case also.

21. Similarly in a case 2003 (99) FLR 587 Bombay High Court New Hind Textile Mills Mumbai and Rashtriya Mill Mazdoor Sangh it has been held that even a X-rox copy of notice of change may be considered by the Court.

22. It is also held that the complainant has proved his working for over and above 240 days of continuous service preceding the date of termination of his service and also that he had not been paid any notice pay, notice or retrenchment compensation by the employer at the time of termination of service. The evidence of the claimant on this point remains uncontroverted. Therefore it is held that the employer has breached the provisions of section 25F of I.D. Act. Therefore, it is held that the termination of the workman is held to be unjust, illegal and unfair and the workman is entitled to be reinstated in service with 50% of back wages.

23. Reference is answered accordingly in favour of the workman and against the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 28 अगस्त, 2012

का.आ. 2959.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचना में, केन्द्रीय सरकार पूर्वोक्त रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संख्या 43/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-08-2012 को प्राप्त हुआ था ।

[सं. एल-41011/111/2010-आर (B-I)]
रमेश सिंह, डेपुटी प्रिजिडेंट

New Delhi, the 28th August, 2012

S.O. 2959.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2011) of the Central Government Industrial Tribunal—cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Purvottar railway and their workman, which was received by the Central Government on 28-08-2012.

[No. L-41011/111/2010-IR (B-I)]
RAMESH SINGH, Presiding Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM—LABOUR COURT LUCKNOW

PRESENT :

Dr. Manju Nigam, Presiding Officer

I.D. No. 43/2011

Ref. No. L-41011/111/2010-IR (B-I) dated 24-03-2011

BETWEEN

Vice President,
United Trades Union Congress (UP)
107/76, Jawahar Nagar,
Kanpur (U.P.)
(Espousing case of Shri Ashok Kumar)

AND

Mandal Rail Prabandhak
Purvottar Railway
Ashok Marg,
Lucknow.

AWARD

By Order No. L-41011/111/2010-IR (B-I) dated 24-03-2011 the Central Government in the Ministry of Labour, New Delhi in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Vice President, United Trades Union Congress (UP), 107/76, Jawahar Nagar, Kanpur (U.P.) and Mandal Rail Prabandhak, Purvottar Railway, Ashok Marg, Lucknow for adjudication.

2. The reference under adjudication is :

“Whether the demand of Union for promotion of Shri Ashok Kumar from the post of Kantewale to the post of

of Guards (Goods) from the DTE his Junior Shri Upendra Prasad was promoted, is legal and justified? To what relief, the Union/Workman is entitled?”

3. The Order of reference was endorsed to the Vice President, United Trades Union Congress (UP), 107/76 Jawahar Nagar, Kanpur (U.P.) with direction to the party raising the dispute to file the statement of claim along with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward a copy of such a statement to each one of the opposite parties involved in this dispute under rule 10(B) of the Industrial Disputes (Central), Rules, 1957.

4. The order of reference was registered in the Tribunal on 4-4-2011 and the office was directed to issued registered notice to the workman for filing the statement of claim with list of reliance and list of witnesses before this Tribunal with advance copy to the management on 11-05-2011; and accordingly, registered notice was issued to the workman's Union vide dated 21-04-2011. None appeared on behalf of the workman's union on 11-5-2011 and on the subsequent dates also i.e. 13-7-2011, therefore, another notice vide dated 20-07-2011 was issued to workman's union on the address provided in the reference order, calling upon to file their statement of claim on 13-09-2011; but again neither anyone turned up from the workman's union on 13-09-2011 nor any statement of claim was filed nor the envelop containing notice was received back in the office. Moreover, the workman's union did not put up its appearance on the date fixed i.e. on 14-10-2011, 04-01-2012, 13-02-2012; 09-04-2012, 21-05-2012, 04-06-2012 and even on today. The workman's union did not turn up in spite of repeated notice by registered post and also the envelopes containing the notices were not received back in the office; accordingly service of the notice upon the workman's union was presumed and the file was reserved for award considering the fact of long pendency of the case before this Tribunal since 04-04-2011 and non-appearance of the party raising the dispute i.e. United Trades Union Congress (U.P.).

5. The reluctance of the workman's union in appearing before this Tribunal and filing their statement of claim indicates that the workman's union does not want to pursue its claim on the basis of which it has raised present industrial dispute.

6. Accordingly, the present reference order is decided as if there is no grievance left with the workman. Resultantly no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

7. Award as above.

Lucknow :
21-07-2012

Dr. MANJUNIGAM, Presiding Officer

नई दिल्ली, 28 अगस्त, 2012

का.आ. 2960.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 03/09) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-08-2012 को प्राप्त हुआ था।

[सं. एल-12012/72/2008-आई. आर. (बी-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 28th August, 2012

S.O. 2960.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/09) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workman, which was received by the Central Government on 28-08-2012.

[No. L-12012/72/2008-IR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/3/09

Shri Mohd. Shakir Hasan, Presiding Officer.

Shri Shivalal, S/o Bheru Lal,
R/o H. No. 119, Anna Nagar,
BHEL Area,
Bhopal (MP)

... Workman

Versus

The General Manager,
State Bank of India,
Personnel & HR Deptt.
LHO : Hoshangabad Road,
Bhopal (MP)

... Management

AWARD

Passed on this 30th day of July 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-12012/72/2008-IR(B-I) dated 15-1-2009

has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of General Manager, State Bank of India, Bhopal in terminating services of Shri Shivalal S/o Shri Bherulal w.e.f. 31-12-2006 is justified? If not, to what relief the concerned workman is entitled?”

2. The workman appeared in the case in person and through his counsel on 28-1-2010 but did not file statement of claim till 15-2-2011. Thereafter the reference proceeded ex-parte against the workman on 15-2-2011.

3. The management also appeared and was represented through his lawyer. The learned counsel for the management has submitted that the workman has not raised any dispute before the Tribunal. It is submitted that it is clear that the workman does not want to contest the reference. Under the circumstances, the management has not filed any written statement and this is a case of no dispute. Accordingly the reference is answered.

4. In the result, a no dispute award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 28 अगस्त, 2012

का. आ. 2961.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 143/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-8-2012 को प्राप्त हुआ था।

[सं. एल-22012/316/2002-आई आर (सीएम-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th August, 2012

S.O. 2961.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 143/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Nandan Mine No. 1 of Western Coalfield Ltd., and their workman, which was received by the Central Government on 28-8-2012.

[No. L-22012/316/2002-IR (CM-II)]
B. M. PATNAIK, Section Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/143/2003

Date: 8-8-2012

**Party No. 1 : The Manager, Nandan Mine No. 1
of WCL, PO : Dungaria,
Distt. Chhindwara, (M.P.)**

Vs.

**Party No. 2 : The President, P.K.K. K.K. Sangh,
Damua, PO : Damua,
Distt. Chhindwara (M.P.)**

AWARD

(Dated : 8th August, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the WCL and their workman, Shri Mahtub Shah, for adjudication, as per letter No. L-22012A/6/2002-IR(CM-II) dated 12-5-2003, with the following schedule :

"Whether the action of the manager, Nandan Mine No. 1, WCL, Kanhan Area in terminating the services of Shri Mahtub Shah S/o. Sh. Jabbar Shah, Trammer of Nandan Colliery No. 1 w.e.f. 13-9-2001 is legal and justified ? If not, to what relief he is entitled ?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Mahtub Shah, ("the workman" in short), through the union, "P.K.K. K.K. Sangh", ("the union" in short) filed the statement of claim and the management of WCL, ("Party No. 1" in short) filed its written statement.

3. The case of the workman is that while he was working in Nandan Mine No. 1, charge sheet dated 25-7-2001, for commission of misconduct under clauses 26.16 and 26.40 of the certified standing orders was issued against him and the allegation in the charge sheet against him was for making a complaint to the office of the State Government against the Sub-Area Manager, Manager and Shift incharge and he was suspended w.e.f. 26-7-2001 and he submitted his reply, denying the charges and Shri Anil Mishra was appointed as the enquiry officer and the enquiry officer was biased and he completed the enquiry with empty formalities and the Sub Area Manager and

Manager against whom complaint was made by him as alleged were not competent to submit the charge sheet and the Manager and Sub Area Manager considered the reply submitted by him and the evidence recorded in the enquiry, even though they were biased against him and the Sub area manager, manager and shift incharge were not examined and management had predetermined to proceed with the enquiry ex-parte and as such, the enquiry officer conducted the enquiry and completed the same on 10-8-2001 itself, while he was on sick leave from 6-8-2001 to 13-8-2001 and he was dismissed from service vide order dated 13-9-2001 and the report of the enquiry officer, the proceedings of the enquiry and show cause notice were not supplied to him and he was denied reasonable opportunity to defend himself in the enquiry and the order of dismissal is illegal and vitiated.

4. The party no. 1 has pleaded inter alia that the workman was working as a trammer in Nandan Mine No. 1 and he was a habitual offender and had committed misconducts several times, for which he had been punished by way of issuing charge sheet and warning letters and the management did not take serious action against him for the misconduct committed in the past, to give the workman opportunity to improve himself, but the workman did not improve his conduct, rather he continued to commit misconduct one after the other and the workman made a false complaint against the officials of the company, with a view to create industrial unrest and therefore, he was issued with the charge sheet bearing no. 1907 dated 25-7-2001, under clauses 26.16 and 26.40 of the standing orders and the workman submitted his reply to the charge sheet and as the reply to the charge sheet was found unsatisfactory, it was decided to hold the departmental enquiry against him and Shri Anil Mishra was appointed as the enquiry officer and the enquiry officer vide memo of enquiry no. 1995 dated 4-8-2001 fixed the first sitting of the enquiry to 7-8-2001 (wrongly mentioned as 7-7-2001 in the written statement) and as the workman did not attend the enquiry, inspite of receipt of the information about the date of enquiry, the enquiry proceedings was adjourned to 10-8-2001 and inspite of receipt of the notice, as the workman did not attend the enquiry on 10-8-2001, the enquiry was conducted ex parte and the management representative produced 13 documents and also examined Gopal Singh as a witness and as the workman did not take part in the enquiry, the enquiry was closed and the enquiry officer submitted his enquiry report, holding the workman guilty of the charges and the workman was issued with show cause notice along with the copy of the enquiry report on 21-8-2001 (wrongly mentioned as 21-8-2000 in the written statement) and taking into consideration the facts and the circumstances of the case, the proved misconduct and the past record of the workman, the competent authority imposed the order of termination from service on 13-9-2001 against the workman.

5. As this is a case of termination of the services of the workman, after holding of a departmental enquiry, the fairness of the departmental enquiry was taken for consideration as a preliminary issue and by order dated 15-7-2011, the enquiry was held to be legal, proper and in accordance with the principles of natural justice.

6. As the time of argument, it was submitted by the learned advocate for the workman that the Hon'ble Apex Court in the decision reported in AIR 1973 SC-1227 (Firestone Tyres & Rubber Co. of India Vs. The management and others) have held that, "the act is a beneficial piece of legislation and enacted in the interest of the employee and as such this must be interpreted accordingly and it is also well settled by the Hon'ble Court that the enquiry will be vitiated and will show the prejudice of enquiry officer, if the enquiry conducted is in contravention of the mandatory provisions of the relevant standing orders and the dismissal order cannot be justified and the labour court must avert to all point raised before it at least on facts and evidence and the Tribunal is not only at liberty to consider as to whether the finding of misconduct recorded by an employer are correct, but also to differ from the said findings, if a proper case is made out and what was once largely in the realm of the satisfaction of the employed has ceased to be so and now, it is the satisfaction or the Tribunal that finally matters and law as laid down by the Hon'ble Apex Court is binding on all and the Hon'ble Apex Court have held that the non-payment of subsistence allowance will vitiate the ex parte enquiry conducted against the workman and the certified standing orders of WCL was certified on 19-2-1993 and came into force on 26-2-1993 or to say on 1-3-1993 and clause 28 of the certified standing orders of WCL provides the time limit for submission of charge sheet, submission of explanation by the workman, payment of subsistence allowance, the time limit for completion of the enquiry and the procedure of the enquiry and in this case, the charge sheet is a vague one and does not contain the details of the charges levelled against the workman and the list of documents and list of witness to be produced and examined respectively and the enquiry officer did not consider the stands taken by the workman in the show cause filed by him to the charge sheet and even failed to mention about the same in his enquiry report and the letter of appointment of the enquiry officer was not served on the workman and even though, the workman had requested to appoint an outsider as the enquiry officer, management did not consider his report and appointed Shri Anil Mishra, a Senior Asstt. Manager of the colliery as the enquiry officer and as the Manager and Sub Area Manager were interested parties, there was gross violation of natural justice. It was also submitted that notices of the departmental enquiry and the copy of the enquiry report were not served on the workman intentionally and the enquiry was conducted ex parte. The learned advocate for

the workman described the alleged defects in the departmental enquiry by bits and pieces. It was also argued that this is a case of no evidence and the findings of the enquiry officer are based on no evidence and as such, the findings are perverse and the disciplinary authority without applying his mind passed the order of termination mechanically and the punishment is harsh and disproportionate and the workman is entitled for reinstatement in service with continuity and full back wages.

In support of such contentions, the learned advocate for the workman placed reliance on the decisions reported in 1970 LLJ-1 (The management of Travancore Titanium Products Ltd. Vs. Their workman), 2010 Mh. L.J.-587 (Shriram V. Deshpande Vs. Presiding Officer) and (1973) 1 SCC-656 (Ghanshyam Vs. State of MP).

7. On the other hand, it was submitted by the learned advocate for the party no. 1 that it has already been held by this Tribunal that the departmental enquiry conducted against the workman fair and valid, as per order dated 15-7-2011 and the workman did not appear in the departmental enquiry inspite of due notice and thus, he waived his right to cross-examine the witnesses by absenting himself and there was no violation of natural justice and the punishment imposed against him is in commensurate to the proved serious misconduct in a properly held departmental enquiry and the punishment is not shockingly disproportionate and there is no scope to interfere with the punishment.

In support of such contentions, reliance was placed on the decision reported in (2003) 4 SCC-670 (State of UP Vs. Chandrapal Singh) and AIR 2010 SC-142 (Biecco Lawrie Ltd. Vs. State of West Bengal).

So, keeping in view, the principles enunciated by the Hon'ble Courts in the decisions cited by the learned advocate for the parties, now, the present case in hand is to be considered.

8. After taking into consideration the submissions made by the learned advocate for the workman, it is found the most of the submissions relate to the fairness of the enquiry. At the cost of repetition, it is to be mentioned that by order dated 15-7-2011, the enquiry has already been held to be legal, proper and in accordance with the principles of natural justice. So, there is no question of considering the submissions made in that regard.

9. On perusal of the materials on record, it is found that the enquiry officer has properly assessed the evidence on record of the enquiry and has given his findings basing on such evidence. Moreover, it is clear from the evidence of the workman that he has admitted about submitting complaint against his higher authority to the collector.

The enquiry officer has not based his findings on any extraneous material. When, the workman did not take part in the enquiry and did not adduce evidence in support of his case, there was no question of taking the grounds mentioned in the show cause for consideration at the time of giving of the findings by the enquiry officer. Hence, the findings of the enquiry officer cannot be said to be perverse.

10. So for the punishment is concerned, it is found that commission of serious misconduct by the workman has been duly proved against him in a properly conducted departmental enquiry. Therefore, the punishment of termination of the services of the workman cannot be said to be shockingly disproportionate. So, there is no scope to interfere with the punishment. Hence, it is ordered.

ORDER

The action of the manager, Nandan Mine No. 1, WCL, Kanhan Area in terminating the services of Shri Mahtub Shah S/o. Sh. Jabbal Shah, Tramner of Nandan Colliery No. 1 w.e.f. 13-9-2001 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 28 अगस्त, 2012

क्र. आ. 2962.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 120/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-8-2012 को प्राप्त हुआ था।

[सं. एल-22012/8/2004-आई आर (सीएम-11)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th August, 2012

S.O. 2962.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 120/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Chandrapur Area of Western Coalfields Ltd. and their workmen which was received by the Central Government on 28-8-2012.

[No. L-22012/8/2004-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/120/2004

Date : 16-8-2012

Party No. 1 : The Chief General Manager,
Chandrapur Area of Western
Coalfields Limited, Post & Distt.
Chandrapur, Maharashtra

Versus

Party No. 2 : Shri S. R. Pendre, General Secretary,
Lal Bavta Koyla Kamgar Union,
Bhiwapur Ward No. 27,
Post & Distt. Chandrapur

AWARD

(Dated : 16th August, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the WCL and their workman, (as per list enclosed) for adjudication, as per letter No. L-22012/8/2004-IR(CM-II) dated 3-11-2004, with the following schedule :

"Whether the action of the management in relation of Chandrapur Area of Western Coalfields Ltd., in not paying group wages and SPRA to the Loaders (as per list enclosed) is legal and justified? If not, to what relief is the workmen entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Konkat Komraiya, filed the statement of claim on behalf of 12 workmen, as per the list attached ("the workmen" in short) and the management of WCL, ("Party No. 1" in short) filed its written statement.

The case of the twelve workmen as presented in the statement of claim is that the party no. 1 is a subsidiary of Coal India Ltd. and is an industry and all of them, from the respective date of their appointment were working as loaders and were being paid group wages with SPRA up to 30th June, 1999 and as per the direction of the party no. 1, workmen, namely Konkat Komraiya, Marmula Madnaiya, Mangalsingh Niranjani, Chanchala Yenkat Durgaiya, Chintala Rajam Rajaiyya, Lakhanlal Ramprasad, Ramsajiwan Jagdeo, Jhinka Kimaiyya, Devatur Pedda

Narsaiyya, More Durgaiyya, Khadasi Odel and Ramasaew Chandrika from the year 1993, Workmen, namely, Marmulla Madnaiya and Lakkanlal Pramprasad from the year 1995, workmen namely, Ramsajiwan Jagdeo and Ram Asare Chandrika from the year 1994, workmen, Jhinka Kimaiyya from the year 1988 and workmen More Durgaiyya from the year 1989 were allowed time rated job, but they were being paid group wages with SPRA of Loader till June, 1999 and the party no. 1 by misusing the power and in violation of the provisions of Schedule V of the Act and without any notice for change of service conditions issued office order No. WCL/CHA/MGR/RAI/96 dated 6-5-2000 to reduced their rank and to pay them wages of General Mazdoor Category-I w.e.f. 1st July, 1999 and the non-payment of group wages with SPRA to them violates the principles of natural justice and the provisions of NCWA and they were not responsible for not doing the job of loaders and as such, they are entitled for group wages with SPRA and clauses 3.3.3 and 3.5.2 of NCWA provide for payment of 100% full back wages to an employee, who was unable to perform the work up to the norms, on account of the factors for which, he was not responsible and the settlement dated 2-11-1992 signed by the party no. 1 and the union under section 12(1) of the Act also provides to give alternate job to the employees particularly to loaders, who are physically weak due to old age, sickness or I.O.D. irrespective of vacancies and to protect the group wages including SPRA on conversion from piece rated to time rated wherever applicable and they were converted to time rated workers from piece rated workers, as they were declared medically unfit to work as loaders and as such, they are entitled for protection of their group wages with SPRA and due to non-protection of their wages each of them is sustaining a loss of Rs. 111.19 p per day and they are also getting less payment towards house rent, yearly bonus and quarterly bonus and in the mean time, workmen, namely, Marmulla Madanaiya, More Durgaiya and Kadasi Odely have already retired from services.

The workmen have prayed that to set aside the order passed by party no. 1 for reduction of their rank with effect from 1-7-1999.

3. The party no. 1 in their written statement have pleaded inter-alia that this instant dispute is not an industrial dispute as because, the dispute on behalf of the 12 workmen was raised before the ALC (C) through a letter dated 13-3-2003 signed by Shri Konkati Kamaraiya and the same was not signed by the other workmen and due to non-signing of the application by other workmen and in absence of any authority in favour of Kamaraiya by the other 11 workmen, the status of the representation should not have been treated as industrial dispute by the ALC (C) and at Chanda Rayatwari Colliery, where the 12 workmen were employed has a total of 612 workers and none of the other workers of the colliery was interested in the alleged

dispute, in other words, there was no community of interest between the general body of workers and the 12 workmen and in absence of any nexus and community of interest between the workers in general and the individual 12 workmen, the dispute is to be treated as individual dispute and the Secretary, R.K.K.M.S. union had informed them vide his letter dated 11-12-2003 that five of the workmen including K. T. Komrraya were members of their union and hence no grievance on their behalf could be taken up by any other union and therefore, raising the dispute on their behalf by Konkati Komaraiya or Lal Bavata union has to be treated as unauthorized and in the representation dated 5-8-2003 it was admitted on behalf of the workmen that the case was not sponsored or espoused by any of the five unions, who are enjoying the status of recognized unions, which clearly shows that the dispute has been raised as a result of inter-union rivalry and Lal Bavta union remains on paper and does not comply with the statutory provisions of Indian Trade Union Act, 1926.

The further case of party no. 1 is that the cause of action had arisen on 1-7-1999, where as the dispute was raised in the year 2003, after a gap of five years and during the intervening years, neither the 12 workmen nor any of the major unions made any demands, allowing the financial implications to mount heavily and the 12 workmen continued to draw wages at the alleged reduced rates voluntarily and having accepted the wage for four long years, they are estopped to challenge the action of the management and they were aware that in case of claiming group wages, they would be placed to work as loaders by the management, which would have been quite legitimate and it is evident that they opted for the lower category of job and corresponding wages, which they cannot challenge belatedly and the terms of reference is vague in as much as the date, from which the group wage with SPRA was not being paid to the workmen has not been mentioned and on the date of reference, i.e. 3-11-2004, the workmen were in time rated categories and were being paid wages of the corresponding categories and neither they were designated nor working as loaders and SPRA is payable to piece rated loaders and therefore, the question of payment of SPRA to the workmen does not arise and in the statement of claim, prayer has been made to set aside the order of reduction of their rank, but the terms of reference do not speak of the legality of any conversion, so the Tribunal cannot decide the issue, by going beyond the terms of reference.

The further case of party no. 1 is that workmen, Marmulla Madnaiya, More Durgaiya and Kodari Odely had already been retired from the service of the company, before the reference was made the Tribunal and the fact was made known to the Ministry before the reference was made and as such, they fell outside the scope of the adjudication and out of the remaining nine persons, except

serial no. 8, Jinka Kimaiygu opted for time rated jobs due to their physical disability to do the job of loaders and serial no. 8 is still performing the job of P R Loader and getting group wages and as the rest workmen were not able to perform the job of loaders, which was affecting their earnings and causing economic difficulty, they requested the management to work on lower and physically less strenuous post and none of them applied or demanded protection of group wages of loader and when the loaders are put on time rated jobs for a short or limited duration, as interim, arrangement before fixing permanently on time rated jobs, they are being paid group wages and when they are permanently placed in time rated categories, their wages are fixed at the midpoint of the time rated category in accordance with the policy decision of the company taken from time to time and there was a shift in the job of the workmen on permanent and regular basis and as such, they are not entitled to any relief.

4. In the rejoinder, it was mentioned that the dispute cannot be said to be individual dispute, because the application was signed only by Konkat Komariya, as the dispute has been raised by a group of workmen.

5. Besides placing reliance on documentary evidence, both the parties led oral evidence in support of their respective claim. On behalf of the workmen, evidence of workmen Konkat Komariya, Chintala Rajan Rajiyya, Devatur Pedda Narasaiyya, Lakhanlal Ramprasad, Ram Sajiwan Jagdeo, Chanchala Yenkatu Durgaiyya, and Marmulla Madnaiyya was filed on affidavit. The said workmen were present in court on 22-9-2008 for their cross-examination, but none appeared on behalf of the party no. 1 to cross-examine them, so their evidence remained unchallenged.

In their evidence on affidavit, the said workmen have reiterated the facts mentioned in the statement of claim.

6. Two witnesses, namely, Bhuvanagiri Anjaniya Prasad, the ex-colliery Manager of Chanda Rayatwari Colliery and Dayal Zunga Gurmule, a clerk of Chanda Rayatwari Colliery have been examined by the party no. 1 in support of their case. The witness, B. Anjaneya Prasad in his evidence has stated that during his tenure as the colliery manager, the 12 workmen had been working as loaders and deployed in time rated jobs from time to time, in terms of request either on health ground or accident disability or on voluntary option and in response to their written applications, he had allowed them light surface duty in time rated jobs from time to time with specific

stipulation in the office order that they would be paid wages of time rated in which they would be deployed and the workmen had never objected to the said arrangements and their deployment in time rated category was not according to the needs of the management, rather it was according to the needs of the workmen and therefore to claim protection of wages by them is not justified.

In this cross-examination, this witness has admitted that the initial appointment of the workmen was in piece rated category and no notice was given to the workman at the time of fixation of their pay in time rated category.

7. Witness, Dayal Zunga Gurnule produced the documents regarding the proposal for obtaining approval for conversion of the workman from piece rated to time rated category and office orders dated 4-5-1999 and 1/3-6-2002 converting the workman from piece rated to time rated category and the circulars issued by G.M. (MP & IR), WCL. This witness has stated that the workmen had never complained about their conversion from piece rated to time rated and the conversion of workmen, Zinka (serial no. 8 in the list) from piece rated to time rated category was cancelled vide office order dated 11-9-1991 and he worked as a loader and retired from services on 30-6-2011. The evidence of this witness has virtually remained unchallenged in the cross-examination.

8. At the time of argument, it was submitted by the learned advocate for the workmen that the workmen were working with party no. 1 at Chanda Rayatwari Colliery on permanent job of underground loaders and were getting group wages with SPRA as per NCWA till 30-6-1999 and as per the direction of the management, they were allowed time rated job and were paid group wages with SPRA till 30-6-1999, but party no. 1 without any notice and without any option submitted by the workmen, changed their service condition and reduced their rank without any valid reason, by way of victimization and unfair labour practice w.e.f. 1-7-1999 and due to such illegal reduction in rank, each of the workman sustained a loss of about Rs. 117 per day and the workmen approached the union, "INTUC" for redress of their grievances in the year 1999 and the Secretary of the union raised the dispute before the conciliation officer (C) Chandrapur and case no. ALCH/54/100/99 was registered, but the result of the same was not intimated to the workmen till 2001, so the workmen withdrew the matter from "INTUC" union and they raised the dispute before the Conciliation Officer (C) Chandrapur on 13-3-2003 and during the conciliation, the management representative intimated in writing that they had moved a

proposal for an amicable settlement in the matter to the company Headquarters for approval and for that the conciliation proceeding was adjourned for several times, but lastly, the conciliation failed and the evidence of the workmen file on affidavit remained unchallenged, as none appeared on behalf of the party no. 1 to cross-examine them and as per the provisions of Chapter III of NCWA, the workmen are entitled for payment of full back wages and the rank of the workmen was reduced by party no. 1 in violation of the principles of natural justice and without giving them any reasonable opportunity to show cause and as such, the action of party no. 1 is illegal and the workmen are entitled to get the back wages for the period from 1-7-1999 till the finalization of the case.

In support of such contentions, the learned advocate for the workmen relied on the decisions reported in 1994 Supp. (2) SCC-391 (Managing Director, ECCL, Hyderabad Vs. B. Karunakar), 2000-1-LLJ-226 (Jaysynth Dyechem Ltd. Vs. Dyes & Chemical workers union) and 1985 11-LLJ-4 (The workmen of the Food Corporation of India Vs. Food Corporation of India).

It is necessary to mention here that though the learned advocate for the workmen has mentioned about several decisions in the written notes of arguments, except the three decisions mentioned above, other decisions of the Hon'ble Courts were not filed for perusal of the Tribunal.

9. Per Contra, it was submitted by the learned advocate for the party no. 1 that the union, namely "Lal Bavta" is not competent to raise the alleged industrial dispute in question and Konkat Komaraiya, who has raised the alleged dispute and signed the statement of claim has no locus standi to do so and the dispute is not an industrial dispute and is purely an individual, dispute, so the Tribunal has no jurisdiction to decide the same. It was further submitted by the learned advocate for party no. 1 that the dispute was raised belatedly i.e. about five years after the cause of action without any reasonable cause, so the reference is not maintainable on the ground of delay and laches and the fixation of the wages of the workmen was done as per the provisions of the settlement dated 2-11-1992 and modified settlement dated 30-10-1995 and the workmen had given option for lighter time rated job due to their own reasons and were not converted to time rated jobs on administrative grounds and the workmen are not entitled to any relief.

In support of such contentions, the learned advocate for the party no. 1 placed reliance on the decisions reported

in AIR 1966 SC-182 (Workmen of Dharampal Premchand Vs. Dharampal Prem Chand) and AIR 1970 SC-73 (Workmen of Indian Express News Papers Ltd. Vs. The Management of Indian Express News Paper Ltd.).

10. The first contention raised by the learned advocate for the party no. 1 is that the dispute is an individual dispute and not an industrial dispute and that being so, it was wrongly referred to Tribunal and the Tribunal has no jurisdiction to adjudicate it. It was also contended that the union which had espoused the dispute is a outside union and the said union is only on paper and doesn't have 25% workmen of the concerned establishment as its members and as such, the union has no authority to represent the workmen. In support of such contentions, the learned advocate for party no. 1 placed reliance on the decisions reported in AIR 1966 SC-182 (Supra) and AIR 1970 SC-737 (Supra).

On the other hand, it was submitted by the learned advocate for the workmen that the dispute is an industrial dispute, the same being sponsored by the union and the five major unions working in WCL did not take any interest in the case of the workmen and as such, the said workmen approached the present union to take their cause for redress.

In the decision reported in AIR 1966 SC-182 (Supra), the Hon'ble Apex Court have held that :

"Industrial Disputes Act (14 of 1947), S. 2(k) and Section 36-"Industrial Dispute"- Individual dispute becomes industrial dispute, if sponsored by the union of workmen or by number of workmen - Union of workmen in one establishment can represent cause of workmen in another establishment belonging to same industry."

In the decision reported in AIR 1970 SC- 737 (Supra) the Hon'ble Apex Court have held that :

"Industrial Disputes Act (14 of 1947), S. 2(k) - individual dispute in establishment espouse by outside union having 25% workmen of concerned establishment as members - Individual dispute held was transformed in to industrial dispute."

With the touch stones principles enunciated by the Hon'ble Apex Court in the decisions mentioned above, now, the present case in hand is to be considered.

11. On perusal of the materials on record, it is found that the dispute was raised before the ALC (C) Chandrapur

by the workman, Konkat Komraiya for himself and 11 others by filing an application dated 13-3-2003. During the pendency of the conciliation proceeding, by letter dated 5-8-2003, the complainant authorized Shri S.R. Pendre, General Secretary, Lal Bavta Koyla Kamgar union to espouse their case. On failure of the conciliation, the failure report was submitted by the ALC to the Central Government and in the letter of reference issued by the Central Government Shri Pendre was shown as a party to the dispute. However, the statement of claim was filed before this Tribunal not by the concerned union or by Shri Pendre. The statement of claim was filed by the workman, Konkat Komraiya. The said statement of claim has only been signed and verified by workman, Konkat Komraiya, even though it has been mentioned in the said statement of claim that the same is a statement of Konkat Komraiya and 11 others. The other workmen have not signed the statement of claim. When the party no. 1 raised objection regarding the filing of the statement of claim by Konkat Komraiya on behalf of other workmen unauthorisedly, the rejoinder was filed being signed by Shri S.R. Pendre, mentioning himself to be the authorized representative for the applicants. The said rejoinder has not been signed even by Konkat Komraiya.

It is necessary to mention here that advocates, Shri Anil Kumar P. Ghule and Shri Kiran M. Lad filed joint Vakalatnama for the workmen, namely, Konkat Komraiya, Marmula Madnaiya, Chanchala Yenkatl Durgaiyya, Chintala Rajam Rajaiyya, Lakhanlal Ramprasad, Ramsajiwan Jagdeo, Devatur Pedda Narsaiyya, More Durgaiyya, and Khadasi Odel. Though the name of the workmen, Ram Asare Chandirka has been mentioned in the Vakalatnama, against the said name, signature of one Lakshmi Yadav is there. It is not known as to why Lakshmi Yadav has signed against the name of Ram Asare. So it cannot be said that workman Ram Asare executed any Vakalatnama in favour the advocates. The statement of the claim was also never ratified by the other workmen.

There is no material on record to show that Lal Bavta Koyla Kamgar union has 25% of workmen of Chanda colliery as its members. There is also no material on record to show that the workmen were members of the said union. The dispute was raised by the workman Konkat Komraiya. There is also nothing on record to show that the other workmen had ever authorized the workman, Konkat Komraiya to raise the dispute on their behalf. There is also no resolution of the union concern to espouse the dispute on behalf of the workmen. Hence, the dispute cannot be said to an industrial dispute from the facts and

circumstances of the case, it is held that the dispute is an individual dispute and therefore, the reference made by the Central Government is not justified.

12. The next contention raised by the party no. 1 is in regard to the delay in raising the dispute. According to the learned advocate for the party no. 1, the cause of action arose in 1999, whereas, the dispute was raised in 2003, about five years after the cause of action and there is unreasonable delay in raising the dispute and as such, the reference is not maintainable.

On the other hand, it was submitted by the learned advocate for the workmen that the dispute was raised on behalf of the workmen by the union "INTUC" before the conciliation officer in the year 1999 and a case was registered, but the result of the same was not intimated to the workmen till 2001, so the workmen withdrew the matter from INTUC union and raised the dispute again on 13-3-2003 and there was no delay in raising the dispute.

13. On perusal of the record, it is found that not a single document has been filed to show that the INTUC union had raised the dispute in the year 1999 before the ALC and case no. ALCH/54/100/99 was registered and the same was pending till 2001. The ALC has also not mentioned about filing of such a case before him by INTUC union in the year 1999, in the failure report submitted by him to the Central Government on 30-12-2003. It is clear from the letter of the ALC dated 30-12-2003 that the dispute was raised for the first time on 13-3-2003. So there was delay of 5 years in raising the dispute. It is well settled by the Hon'ble Apex Court in a number of recent decisions that no formula of universal application can be laid down for determination of the question of delay in seeking reference and it would depend on facts of each individual case and it is for the workman concerned to show that the dispute was raised within a reasonable time and that he was not responsible for any delay. In the present case, the workmen have not placed any material to show that they had raised the dispute within a reasonable time and they were not responsible for the delay in raising the dispute. So the delay of 5 years is unreasonable and on that count also, the reference is not maintainable.

14. The next point for consideration is as to whether the workmen are entitled for protection of their group wages with SPRA. In this connection, it is to be mentioned here that the reference has been made to adjudicate the dispute regarding the legality of the non-payment of group wages with SPRA to the workmen, who were working as loaders by the party no. 1. However, in the statement of

claim, prayer has been made to set aside the action of the party no. 1 in reducing in rank of the workmen, which is beyond the scope of the reference.

15. It is not disputed that the workmen were working as loaders and getting group wages with SPRA and they were given alternative light jobs on their request, due to their inability to work in the underground as loaders and they were paid group wages with SPRA till 30-6-1999. The documents filed as annexure A and B by the party no. 1, relating to the written applications given by the workmen and order passed for providing light job temporarily to them have been admitted by the workmen. The documents filed by the party no. 1 show that the workmen applied at different times to give them light jobs for different reasons and considering their applications, party no. 1 provided them light jobs and lastly by order dated 4-8-1999, the workmen were converted to time rated category from piece rated category permanently. This action of the party no. 1 was in accordance with the settlement dated 2-11-1992, M-II, on which, the workmen have mainly based their claim. No doubt, in clause I (iii) of the said settlement, provisions were made to protect the group wages with SPRA on conversion from piece rated to time rated/monthly rated categories, wherever applicable, but, clause I (iii) of the settlement dated 2-11-1992 was modified by another settlement dated 31-10-1995 and it was provided that "All such piece rated workers who have given or may give option for time rated/monthly rated jobs or in case of their selection through internal notification for any time rated/monthly rated job will be fixed in the middle of commensurate category for which they opt in time rated only and no personal pay will be allowed w.e.f. 1-11-1995 and "Hence-forth the piece rated workers who are engaged on time rated jobs will be paid as per the nature of work performed by them."

It is also necessary to be mentioned here that in the office orders issued by the party no. 1 to provide light job to the workmen for temporary periods, it was clearly mentioned that they would be paid according to the work done by them. It is also clear from the materials on record that basing on the settlement referred above, the wages of the workmen were fixed at midpoint of General Mazdoor Category-I.

It is also clear from the materials on record that the workmen did not object to such fixation of their wages and received such wages without any complaint or objection till 13-3-2003, when the dispute was raised by the workman, Konkath Komaraiya for the first time by filing

an application before the A.L.C. (C) Chandrapur. So the action of the party no. 1 cannot be said to be change of service condition of the workmen or reduction of the rank of the workmen.

It is to be mentioned here that the provisions of clauses 3.3.3 and 3.5.2 of NCWA regarding payment of back wages have no application to the case of the workmen.

In view of the facts and circumstances as mentioned above, with respect, I am of the view that the three decisions on which reliance has been placed by the learned advocate for the workmen have no application to the case in hand. Hence, it is ordered :

ORDER

The action of the management in relation of Chandrapur Area of Western Coalfields Ltd., in not paying group wages and SPRA to the Loaders (as per list enclosed) is legal and justified. The workmen are not entitled to any relief.

J. P. CHAND, Presiding Officer

SCHEDULE

Sl. No.	Name of the workman	Date from which SPRA not paid
1.	Shri Konkath Komaraiya	1-7-1999
2.	Shri Marnula Madnaiyya	1-7-1999
3.	Shri Mangalsingh Niranjan	1-7-1999
4.	Shri Chanchala Yenkatl Durgaiyya	1-7-1999
5.	Shri Chintala Rajam Rajaiyya	1-7-1999
6.	Shri Lakhanlal Ramprasad	1-7-1999
7.	Shri Ramsajiwan Jagdeo	1-7-1999
8.	Shri Jhinka Kimaiyya	24-5-2002
9.	Shri Devatur Pedda Narsaiyya	24-5-2002
10.	Shri More Durgaiyya	1-7-1999
11.	Shri Khadasi Odel	1-7-1999
12.	Shri Ramasaew Chandrika	1-7-1999

नई दिल्ली, 28 अगस्त, 2012

का.आ. 2963.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (आई डी संख्या 30/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-08-2012 को प्राप्त हुआ था।

[सं. एल-22012/17/2008-आई आर (सीएम-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th August, 2012

S.O. 2963.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 30/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure, in the Industrial Dispute between management of Western Coalfields Limited, and their workman, which was received by the Central Government on 28-08-2012.

[No. L-22012/17/2008-IR (CM-II)]
B.M. PATNAIK, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

No. CGIT/NGP 30/2008

Party No. 1 : The Chief General Manager,
Wani Area of WCL,
Post Urjagram Tadali,
Distt. Chandrapur (MS)

V/s

Party No. 2 : The Secretary, Sanyukta Khadan
Mazdoor Sangh (AITUC),
Sanyal Bhavan, Gandhi Nagar,
Ghugus, Distt.
Chandrapur-442505.

AWARD

(Dated : 8th August, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of WCL and their workman, Shri Arun Bongle, for adjudication, as per letter No. L-22012/17/2008-IR

(CM-II) dated 5-6-2008, for adjudication with the following schedule :

"Whether the action of the management of M/s. WCL in not correcting the date of birth of Shri Arun M. Bongle as 2-8-1963 instead of 2-8-1962 is legal and justified? To what reliefs is the workman concerned entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the union, "Sanyukta Khadan Mazdoor Sangh (AITUC)", ("the union" in short) filed the statement of claim, on behalf of the workman, Shri Arun Bongle, ("the workman" in short) stating that the actual date of birth of the workman is 2-8-1963 and wrongly his date of birth was mentioned as 2-8-1962 in the officials record of party no. 1 and as such, it is necessary to correct the date of birth of the workman as 2-8-1963 instead of 2-8-1962.

3. The management of WCL, ("party no 1" in short) filed written statement pleading inter-alia that there was no mistaken in recording the date of birth of the workman and the workman is not entitled for any relief.

4. During the pendency of reference i.e. 8-8-2012 the advocates for the parties filed a joint applications stating therein that there was a amicable settlement between both the parties and the parties have signed a settlement in form no. 'H' as per the provisions of the Act and Rules and party no. 1 has agreed to correct the date of birth of the workman as 2-8-1963 in its records. As, the settlement arrived at by the parties is a legal settlement, the application was allowed. As the industrial dispute has already been resolved by way of a settlement, it is necessary to pass a "consent" award. Hence, it is ordered :

ORDER

The reference may be treated as "consent" award in terms of settlement entered between the parties dated 27-7-2012. The application dated 8-8-2012 and copy of the settlement in form 'H' dated 27-7-2012 are made part of the award.

J.P. CHAND, Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NAGPUR

Ref. case No. CGIT/NGP/30/2008

Employers in relation to the
Management of Chief General Manager,
Wani Area, WCL

AND

Secretary, Sanyukta Khadan Mazdoor
Sangh, Ghugus.

APPLICATION FOR CONSENT AWARD

The parties to the dispute most humbly & respectfully begs to submit the following for its kind consideration :

1. That, the above case while it was pending for its adjudication before this Hon'ble Tribunal, both the parties inclined to settle the matter amicably and accordingly arrived at a settlement of the dispute by signing a settlement in 'Form-H' as per the provisions of the Industrial Disputes Act 1947 and Rules. Accordingly the date of birth of Shri Arun Mukunda Bhongle Workman shall be corrected from 1-7-1958 to 2-8-1963 in the records in which it was wrongly recorded.

2. Copy of the settlement dated 27-7-2012 is enclosed herewith.

3. In view of the above it is humbly prayed that dispute between the parties be graciously declared as amicably settled and accordingly 'Consent Award' in the case may kindly be given.

Hence this application.

Prayer : Prayed for Accordingly.

Nagpur :

Dt. 8-8-2012

Sd/-

Counsel for
Party No. 1

Sd/-

Counsel for
Party No. 2

फॉर्म-एच

औद्योगिक विवाद अधिनियम, 1947 की धारा 18(1) के तहत, औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम 58 के अनुसार

समझौता ज्ञापन दिनांक 27-07-2012

पक्षों का नाम :

प्रबंधन प्रतिनिधी :

1. श्री इकबाल सिंह, उप महाप्रबंधक (कार्मिक)
वे.को.लि. वणी क्षेत्र
2. श्री राजेश व्ही नायर,
प्रबंधक (कार्मिक/औ.सं.),
वे.को.लि. वणी क्षेत्र

कामगार/संघ प्रतिनिधी :

1. श्री अरुण मुकुन्दा भोंगले, 19860568
ऑपरेटर, नायगाँव ओ.सी.,
वे.को.लि. वणी क्षेत्र
2. श्री नरेन्द्र चन्द्रैया, सचिव,
एस.के.एम.एस. (एटक)
वे.को.लि. वणी क्षेत्र

प्रकरण का संक्षिप्त विवरण

श्री अरुण मुकुन्दा भोंगले, एन.ई.आई.एस. क्र. 19860568, ऑपरेटर, नायगाँव ओपनकास्ट खान, वे.को.लि. वणी क्षेत्र के संबंध में एस.के.एम.एस. (एटक) संघ द्वारा औ. सं. की बैठकों में मांग उठाया था कि श्री अरुण मुकुन्दा भोंगले की जन्म तिथि, नायगाँव ओ.सी.एम. (वर्तमान इकाई जिसमें वह पदस्थ हैं) में स्थानांतरण (वर्ष 1988) होने पर भरे गए फॉर्म-बी (क्र. 89) में गलती से वर्ष 1987 में 29 वर्ष (यानी आई.आई. 76 के अनुसार 1-7-1958-एक जुलाई उन्नीस सौ अठ्ठावन) दर्ज हो गया है। श्री अरुण मुकुन्दा भोंगले की प्रथम नियुक्ति पर भरे गए फॉर्म-बी (यानी घुग्गुस कॉलरी में वर्ष 1982 में भरे गए फॉर्म-बी क्र. 1814), वर्ष 1987 में बने सेवा पुस्तिका एवं एन.ई.आई.एस. डाटा में अंकित जन्म तिथि दिनांक 2-8-1963 है। संघ ने मांग की है कि वर्ष 1988 में स्थानांतरण होने पर भरे गए फॉर्म-बी (क्र. 89) में गलती से अंकित जन्म तिथि (1-7-1958) को सुधार कर, उनकी जन्म तिथि, उनके नियुक्ति (दिनांक 4-12-1982) के समय (घुग्गुस कॉलरी में) भरे गए प्रथम फॉर्म-बी (क्र. 1814), में अंकित जन्म तिथि (2-8-1963-दो अगस्त उन्नीस सौ तरेसठ), किया जाए। इस संबंध में सी.जी.आई.टी. नागपुर के समक्ष प्रकरण क्र. CGIT/NGP/30/2008, भी लम्बित है।

श्री अरुण मुकुन्दा भोंगले, एन.ई.आई.एस. क्र. 19860568, ऑपरेटर, नायगाँव ओपनकास्ट खान, वे.को.लि. वणी क्षेत्र, को आयु सुधार का प्रकरण समस्त आवश्यक दस्तावेजों सहित, सक्षम अधिकारी के अवलोकन एवं निर्णय हेतु, वे.को.लि. मुख्यालय, नागपुर को नोटशीट क्र. WCL/WA/CGM/PER/IR/D.O.B./Arun M. Bhongle/45/2012/3801 dtd. 30-4/04-05-2012 द्वारा भेजा गया। इस प्रकरण का विस्तृत जांच मुख्यालय में गठित समिति द्वारा किया गया।

क्षेत्र द्वारा प्रस्तुत नोटशीट क्र. WCL/WA/CGM/PER/IR/D.O.B./Arun M. Bhongle/45/2012/3801 dtd. 30-4/04-05-2012 में मुख्यालय ने टिप्पणी अंकित की है कि प्रकरण की जांच में यह पाया गया है कि श्री अरुण मुकुन्दा भोंगले के प्रथम नियुक्ति पर भरे गए फॉर्म-बी (यानी घुग्गुस कॉलरी में वर्ष 1982 में भरे गए फॉर्म-बी क्र. 1814), वर्ष 1987 में बने सेवा पुस्तिका एवं प्रणाली विभाग के एन.ई.आई.एस. डाटा में अंकित जन्म तिथि दिनांक 02-08-1963 है, तथा क्षेत्र के अन्दर ही एक इकाई से दूसरी इकाई में वर्ष 1987/1988 में स्थानांतरित होने पर लिपिकीय त्रुटी के कारण इनकी जन्म तिथि, स्थानांतरित इकाई के फॉर्म-बी (क्र. 89) में दिनांक 1-7-1958 अंकित हो गई है। मुख्यालय अनुसार, क्योंकि प्रथम फॉर्म-बी सेवा पुस्तिका एवं एन.ई.आई.एस.डाटा में अंकित जन्म तिथि दिनांक 2-8-1963 है, स्थानांतरित इकाई के फॉर्म-बी में लिपिकीय त्रुटी से अंकित जन्म तिथि में सुधार करने के लिए, प्रस्ताव मुख्यालय भेजने की आवश्यकता नहीं है। अतः श्री अरुण मुकुन्दा भोंगले के वर्ष 1982 में प्रथम नियुक्ति पर भरे गए फॉर्म-बी, वर्ष 1987 में बने सेवा पुस्तिका एवं प्रणाली विभाग में एन.ई.आई.एस. डाटा में अंकित जन्म तिथि के आधार पर, उनसे संबंधित अन्य

कार्यालयीन रिकॉर्डों में जहां कहीं भी दिनांक 2-8-1963 से भिन्न जन्म तिथि अंकित है, को सुधारने का निर्णय लिया गया है। अतः यह जन्म तिथि सुधार निम्न अंकित शर्तों पर स्वीकृत किया है।

समझौता ज्ञापन की शर्तें :

1. श्री अरुण मुकुन्दा भोंगले, एन.ई.आई.एस. क्र. 19860568, ऑप्रेटर नायगाँव ओपनकास्ट खान, वे.को.लि. वणी क्षेत्र की जन्म तिथि दिनांक 1-7-1958 से सुधार कर 2-8-1963 (दो अगस्त उन्नीस सौ त्रैसठ) किया जाता है।
2. श्री अरुण मुकुन्दा भोंगले, एन.ई.आई.एस. क्र. 19860568, ऑप्रेटर, नायगाँव बिना कोई शर्त, उनके जन्म तिथि के संबंध में सी.जी. आई.टी., नागपुर के समक्ष, चल रहे प्रकरण क्र. CGIT/NGP/30/2008, को वापस लेंगे।
3. श्री अरुण मुकुन्दा भोंगले, इस प्रकरण को लेकर, और किसी भी फोरम (Forum) पर किसी भी प्रकार का विवाद नहीं उठाएंगे तथा मांग नहीं करेंगे।
4. यह समझौता, श्री अरुण मुकुन्दा भोंगले, बिना किसी दबाव के, उनकी पूर्ण सहमति से किया जा रहा है।

पक्षों का समझौता स्वीकृति हस्ताक्षर

नियोक्ता प्रतिनिधि :

ह.
(इकबाल सिंह)
उप महाप्रबंधक (कार्मिक)
वे.को.लि. वणी क्षेत्र

संबंधित कामगार :

ह.
(अरुण मुकुन्दा भोंगले)
(ऑप्रेटर)
नायगाँव खान, वे.को.लि.
वणी क्षेत्र

कामगार प्रतिनिधि :

ह.
(राजेश व्ही नायर)
प्रबंधक (कार्मिक/औ.सं.)
वे.को.लि. वणी क्षेत्र

ह.
(नरेन्द्र चन्द्रैया)
सचिव, एस.के.एम.एस.
(ऐटक), वे.को.लि.
वणी क्षेत्र

समझौता के गवाह :

(i) श्री हरी खांडासकर, वरीय लिपिक, क्षेत्रीय मुख्यालय, वे. को.लि. वणी क्षेत्र हरिखांडासकर। (ii) श्री सुनील आसोने, निजी सहायक, कार्मिक विभाग, क्षेत्रीय मुख्यालय, वणी क्षेत्र। ह.

प्रतिलिपि :

1. सहायक श्रम आयुक्त (केन्द्रीय), भारत सरकार श्रम मंत्रालय, चन्द्रपुर
2. क्षेत्रीय श्रम आयुक्त (केन्द्रीय), भारत सरकार श्रम मंत्रालय, नागपुर
3. मुख्य श्रम आयुक्त (केन्द्रीय), भारत सरकार श्रम मंत्रालय, नई दिल्ली

4. सचिव, भारत सरकार श्रम मंत्रालय, नई दिल्ली
5. मुख्य महाप्रबंधक, वे.को.लि. वणी क्षेत्र
6. महाप्रबंधक (कार्मिक/औ.सं.) वे.को.लि., नागपुर
7. उप महाप्रबंधक (खनन), नायगाँव उपक्षेत्र, वणी क्षेत्र
8. मुख्य प्रबंधक (प्रणाली), वे.को.लि., वणी क्षेत्र
9. समस्त समझौता हस्ताक्षरकर्ता
10. प्रबंधक (कार्मिक/औ.सं.) वे.को.लि. वणी क्षेत्र
11. मास्टर फाईल

नई दिल्ली, 28 अगस्त, 2012

का.आ. 2964.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर.सी.एफ. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, मुम्बई के पंचाट (आईडी संख्या 48/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-08-2012 को प्राप्त हुआ था।

[सं. एल-42012/219/2004-आई आर (सी.-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th August, 2012

S.O. 2964.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/2006) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Mumbai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of RCFL and their workman, which was received by the Central Government on 28-08-2012.

[No. L-42012/219/2004-IR (C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT:

Justice G. S. Sarraf, Presiding Officer

Reference No. CGIT-1/48 of 2006

Parties : Employers in relation to the management of Rashtriya Chemicals and Fertilizers Ltd.

AND

Their Workmen

Appearances :

For the Management : Shri Alva, Adv.

For General Employees : None
Association

State : Maharashtra

Mumbai, the 7th day of August, 2012.

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section (1) and sub-section(2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference given in the schedule are as follows :

(1) Whether the contract between the contractor and Rashtriya Chemicals and Fertilizers Limited, Mumbai is sham and bogus and is a camouflage to deprive the workmen whose names are enlisted at Exhibit "A" from the benefits available to permanent workers of the Rashtriya Chemicals and Fertilizers Limited ?

(2) Whether the workmen whose names are enlisted at Exhibit "A" should be declared as permanent workers and wages and consequential benefits to be paid to concerned workers ?

2. General Employees Association has not turned up inspite of service of notice and has not filed any statement of claim.

3. The first party has also not filed written statement.

4. There is absolutely nothing on the record to prove that the contract between the contractor and Rashtriya Chemicals and Fertilizers Ltd., Mumbai is sham and bogus and is a camouflage to deprive the workmen whose names are enlisted at Ex-A from the benefits available to permanent workers of the Rashtriya Chemicals and Fertilizers Ltd. There is also no material on the record to show that the workman whose names are enlisted at Ex-A should be declared as permanent workers and wages and consequential benefits should be paid to them.

5. The conclusion is that in the absence of any material on the record the workmen are not entitled to any relief.

Award is passed accordingly.

Justice G. S. SARRAF, Presiding Officer

नई दिल्ली, 28 अगस्त, 2012

का.आ. 2965.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (आई डी संख्या 147/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-08-2012 को प्राप्त हुआ था।

[सं. एल-22012/335/2002-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th August, 2012

S.O. 2965.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 147/2003) of the Central Government Industrial Tribunal cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Nandgaon Inc of Hindustan Lalpeth of WCL, and their workman, received by the Central Government on 28-08-2012.

[No. L-22012/335/2002-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING
OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/147/2003

Date 13-8-2012

Party No. 1 : The Sub-Area Manager,
Nandgaon Inc. of Hindustan,
Lalpeth of WCL, PO. Lalpeth,
Distt. Chandrapur (MS)

V/s.

Party No. 2 : Shri Rameshwar S. Chandel,
Netaji Chowk, Mahadeo Mandir
Road, Babupeth, Chandrapur (MS)

AWARD

(Dated : 13th August, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of Nandgaon Inc. of Hindustan Lalpeth of WCL and their workman, Shri Rameshwar Chandel, for adjudication, as per letter No. L-22012/335/2002-IR (CM-II) dated 16-6-2003, with the following schedule :

"Whether the action of the management in relation to Nandgaon Incline of Hindustan Lalpeth U/G Sub Area of WCL in dismissing from service Sh. Rameshwar Shankar Chandel, Loader from services

vide office order no. WCL/CHA/HLUGSA/NI/SOM/PER/1095 dated 5-8-2000 is legal and justified? If not, to what relief the workman is entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman, Shri Rameshwar Shankar Chandel, ("the workman" in short) filed the statement of claim and the management of WCL ("party no. 1" in short) filed the written statement.

The case of the workman as projected in the statement of claim is that he was appointed as a loader on 8-10-1986 with party no. 1 and his service record was clean and unblemished and on 25-3-1999, he was served with a charge sheet and he submitted his explanation, but the party no. 1 being not satisfied with the explanation, conducted a departmental enquiry and vide order dated 5-8-2000, he was dismissed from services and he submitted a representation to the General Manager on 6-7-2001, but nothing had come out of the same. The further case of the workman is that the inquiry conducted by the enquiry officer is totally illegal and against the principles of natural justice and therefore, the same is liable to be quashed and set aside and necessary documents produced in the inquiry were not supplied to him inspite of repeated demands and he was not supplied with the day to day proceeding of the inquiry, in absence of which, he was not able to get himself prepared for the next date of the inquiry and the inquiry officer did not maintain any order sheet mentioning the next stage of the inquiry and fixed the stages according to his sweet will, favouring the management and the inquiry was completed in a haste by the inquiry officer and proper and sufficient time was not given to him to defend himself and the enquiry officer arbitrarily did not allow the participation of the defence representative, Shri Ram Murat Yadav, without any authority on false ground, as a result of which, he was not able to defend himself properly and through, the enquiry was fixed to 05-06-2000, the enquiry officer did not mentioned the purpose for which the enquiry was fixed on that date and on 05-06-2000, some management's witnesses were examined, but such examination was not done in his presence and he was not given chance to cross-examine the witnesses and the enquiry officer completed the enquiry without giving him any opportunity to examine his witnesses, which facts clearly demonstrate the favouritism and bias attitude of the enquiry officer and on 05-06-2000, though he had filed an application before the enquiry officer to allow Shri Ram Murat Yadav to act as his defence representative, neither his request was turned down nor any date was given to him and before passing of the order of his dismissal from services, no show cause notice was served and therefore, the dismissal order is totally illegal and he had submitted his say on the enquiry report dated 1-7-2000, but party no. 1, without referring to his say, passed the dismissal order

and the enquiry report is totally vague and illegal and the findings are without any evidence and the enquiry officer did not refer to any evidence in support of his findings and the findings are perverse. It is further pleaded by the workman that the charge sheet dated 25-3-1999 is regarding the allegation relating to 1986 and management has not given any explanation for taking such a belated action after 14 years and the submission of the charge sheet is illegal and with mala fide intention and before dismissal, his past service record was not considered and the punishment imposed is highly disproportionate to the unproved charge and the enquiry was conducted in violation of the principles of natural justice. The workman has prayed to quash and set aside the order of dismissal and for his reinstatement in service with continuity and full back wages.

3. The party no. 1 in its written statement has pleaded inter-alia that the service conditions of the employees working with it are governed mainly by the National Coal Wages Agreement and Certified Standing Orders and one Dewaj Shankarrao Pardi, who was working as Trammer at Kanhan area of WCL was declared unfit medically on 27-4-1985 and the workman by way of giving fraudulent, false and incorrect information, claimed and applied for employment as the dependent of said Dewaji Pardi and suppression of facts and fraudulent information was given by the workman willfully with ulterior motive, to obtain employment in the services of WCL and such facts came to the knowledge of the management subsequently and such acts on the part of the workman were misconducts as incorporated in the Standing Orders and it was therefore, felt necessary for the management to investigate into the facts and acts of misconduct committed by the workman, in the interest of discipline and therefore, a regular departmental enquiry was ordered by issuing necessary charge sheet clearly spelling out the allegations against the workman and enquiry officer was appointed to make enquiry into the charges mentioned in the charge sheet and the enquiry officer conducted the enquiry in a most fair manner and all reasonable opportunities of defence as per the rules were given to the workman and adjournments as demanded by the workman were granted and services of the defence representative were allowed to be availed as per the provisions of the Standing Orders and the workman himself decided not to co-operate with the enquiry and sought unreasonable adjournments to prolong the enquiry, so the enquiry officer was constrained to continue with the enquiry ex-parte and during the enquiry, all the proceedings were made available for perusal and inspection of the workman and the workman himself failed to cross-examine the witnesses of the management or to produce defence witnesses, by willfully preferring to remain absent on 15-6-2000 before the enquiry officer, so the enquiry officer was constrained to close the enquiry and submitted his report on 1-7-2000

to the competent authority and in his report, the enquiry officer had declared all the charges framed in the charge sheet as proved and the findings of the enquiry officer are based on evidence recorded during the course of the enquiry and the competent authority accepted the findings of the enquiry officer and after supplying the copy of the findings of the enquiry officer and giving opportunity to submit his say over the findings to the workman, initiated further necessary action and before taking the final action, all the rules incorporated in the Standing Orders, past record of the workman, as well as the say of the workman were taken into consideration and as serious charges involving fraud, misrepresentation, suppression of facts and dishonesty were proved against the workman, the punishment of dismissal was passed by the competent authority vide order dated 5-8-2000 and the order dated 5-8-2000 was just and fair.

4. As this is a case of dismissal of the workman from services, after holding a departmental inquiry against him, the fairness of the departmental enquiry was taken up for consideration as a preliminary issue and as per orders dated 20-01-2012, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

5. At the time of argument, it was submitted by the learned advocate for the workman that before dismissal of the workman, no show cause notice was served on the workman and as such, the dismissal order is totally illegal and the findings of the enquiry officer are totally vague and illegal and the findings are without support of any evidence and the enquiry officer has not mentioned any specific document or evidence of any witness by which he held the charges to have been proved and therefore, the findings are perverse and the charge sheet dated 25-3-1999 is regarding allegation relating to 1986 and management has not given any explanation of such belated action and as such, the submission of the charge sheet itself was illegal and before dismissal, the past service record of the employee was not considered and the punishment imposed is highly disproportionate.

6. Per contra, it was submitted by the learned advocate for the party no. 1 that the workman by way of giving fraudulent, false and incorrect information wilfully claimed and applied for employment as the dependent of Dewaji Shankarrao Pardi, who was working as a Trammer at Kanhan area of WCL and who was declared medically unfit on 27-4-1985 and when such facts came to the knowledge of the management, charge sheet was submitted against the workman clearly spelling out the allegations against him and the findings of the enquiry officer are based on evidence recorded during the course of the enquiry and after supplying the copy of the said findings to the workman and giving him opportunity to submit his say over the findings of the enquiry officer,

further necessary action was initiated and before taking the final action, past record of the workman as well as his say was taken into consideration and as charges of serious nature involving fraud, misrepresentation, suppression of facts and dishonesty etc. were proved against him, the competent authority awarded the punishment of dismissal from services against the workman and the punishment is not only legal but also justified.

7. The first contention raised by the learned advocate for the workman is that no show cause notice was served on the workman before imposition of the punishment and as such, the dismissal order is totally illegal. However, on perusal of the pleadings of the workman as mentioned in paragraph 2(H) of the statement of claim, wherein it has been mentioned that, "The employee has submitted his say on the enquiry report dated 1-7-2000, but the management without referring the say of the employee passed the dismissal order", it is found that there is no force in the contention raised by the learned advocate for the workman. The above mentioned statement clearly shows that the workman not only received the copy of the enquiry report but also submitted his say on the same. Moreover, the workman in his cross-examination has also admitted that he received the copy of the enquiry report submitted by the enquiry officer. So, the contention raised by the learned advocate for the workman on that score fails.

8. The next contention raised by the learned advocate for the workman is regarding the delay in submission of the charge sheet. According to the learned advocate for the workman, the submission of the charge sheet itself is illegal, as the charge sheet was submitted on 25-3-1999 pertaining to vogue allegations of 1986. However, I find no force in such contentions, as because, it is found from record that the charge sheet was submitted by the party no. 1 against the workman, when it came to light that the workman got himself employed as a dependent of another workman, who was declared medically unfit, fraudulently, dishonestly and by suppressing real information. Hence, there is no question of any delay in submitting charge sheet against the workman.

9. So far the perversity of the findings of the enquiry officer is concerned, on perusal of the enquiry report, it is found that the findings of the enquiry officer are based on the evidence on record. The enquiry officer has assessed the evidence on record in a rational manner and has assigned reasons in support of his findings. Hence, the findings of the enquiry officer cannot be held to be perverse.

10. So far the proportionality of the punishment is concerned, it is found that grave and serious misconduct involving fraud, dishonesty, suppression of real information and misrepresentation have been proved

against the workman in a properly held departmental enquiry. So, the punishment of dismissal of the workman from services cannot be said to be shockingly disproportionate, calling for any interference. Hence, it is ordered :

ORDER

The action of the management in relation to Nandgaon Incline of Hindustan Lalpeth U/G Sub Area of WCL in dismissing from service Sh. Rameshwar Shankar Chandel, Loader from services vide office order no. WCL/CHA/HI.UGSA/NI/SOM/PER/1095 dated 5-8-2000 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 28 अगस्त, 2012

का.आ. 2966.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एच.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गोदावरीखानी के पंचाट (आईटीआईडी संख्या 53/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-8-2012 को प्राप्त हुआ था।

[सं. एल-22013/1/2012-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th August, 2012

S.O. 2966.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal-cum-Labour Court, Godavarikhani (IT/LD/53/2006) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 28-8-2012.

[No. L-22013/1/2012-IR (C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT GODAVARIKHANI

PRESENT:

Sri M.A. Shareef, B.Sc., LL.B.,
I Additional Sessions Judge,
Karimnagar, FAC : Chairman,
Industrial Tribunal-cum-Labour Court,
Godavarikhani

Saturday, the 4th day of August, 2012

Industrial Dispute No. 53 of 2006

BETWEEN :

I Mogal Sab, S/o Wali Modh, Aged about 50 years,
Occ : Coal Filler 3B, R/B R/o Village Janagaom Mandal
Ramagundam Distt. Karimnagar

... Petitioner/Employee

AND

1. Colliery Manager, VI th Incline, Godavarikhani;
2. General Manager, S.C. Company, Ramagundam Area I, Godavarikhani;
3. Managing Director, Singareni Collieries Company Ltd., Kothagudem, Khammam District

... Respondents

This case is coming on 21-7-2012 before me for final hearing in the presence of Sri S. B. Rao, Advocate for the petitioner and of Sri D. K. Murthy, Advocate, for the Respondents; and having been heard and having stood over for consideration till this day, the Court delivered the following :

AWARD

1. This petition is filed U/Sec. 2-A (2) of Industrial Disputes Act, 1947 to direct the respondent to reinstate the petitioner into service with continuity, and other attendant benefits including full back-wages.

2. The averments of the petition are that the petitioner was appointed as an employee in Respondent's company on 1-1-1980. From January, 2002 to December, 2002 the petitioner absented to his duties for 177 days. The petitioner's wife and his five years son are the patients of Epilepsy, they were getting strokes and fits, so, the petitioner absented from duty to get treated to his wife and son. Thereafter, the petitioner was issued charge sheet U/S 25 : 25 standing orders of company for absenteeism and held domestic enquiry and finally the petitioner was removed from service. The punishment imposed on the petitioner is in-proportionate as such the petitioner prayed to direct the respondents to reinstate him into service with continuity and other attendant benefits including full back wages.

3. The second Respondent filed counter which is adopted by other respondents admitting that the petitioner worked in Respondent's company not from 1-1-1980 but from 11-3-1981. The petitioner failed to exhaust conciliation procedure as laid down in I.D. Act. The respondent company is carrying out mining operation for winning coal and at the same time it is running hospitals for the workers and other employees. If the disease is complicated the said hospital can refer the patients to other hospitals. The

petitioner though fully aware of the same did not avail this facility, so, the petitioner remained absent without obtaining leave and he put only 88 actual musters in calendar year 2002, therefore, a charge was issued to the petitioner dt. 1-1-2003 under company's standing order No. 25.25 as follows : "habitual late attendance or habitual absence from duty without sufficient cause". The petitioner fully participated in the domestic enquiry but he himself did not take defence assistant. Moreover, the petitioner pleaded guilty of misconduct as he admitted to have been absence from the duty except 88 working days. The petitioner did not obtain prior permission from the competent authority for his absence. As assurance was given by the petitioner he was counseled on 2-7-2003 and he was given opportunity to improve his attendance for a period of three months from 1-7-2003 to 30-9-2003. The petitioner put 26 musters only instead of 60 minimum musters. As there was no improvement in the performance the respondent dismissed the petitioner from company's service. Therefore, the respondent prayed to dismiss the petition.

4. From the above pleadings preliminary issues were framed by this Court as follows :

- (1) Whether respondent not given an opportunity to cross-examine the witnesses.
- (2) Whether the enquiry proceedings are in English, as the petitioner is illiterate and obtained the thumb impression without explaining the contents.
- (3) Whether there is no specific charge of absenteeism.

Hence, domestic enquiry is not valid.

5. The petitioner filed memo U/s. 11A of I.D. Act not disputing the validity of the domestic enquiry. Therefore, the petitioner and respondents were ordered to argue the case.

6. On behalf of the petitioner Exs. W. 1 to W. 6 filed and on behalf of Respondents Exts. M. 1 to M. 9 filed.

7. Heard both sides.

8. The point for consideration is :

"Whether the petitioner can be reinstated into service with continuity and other attendant benefits with full back wages?"

Point :

9. The contention of the petitioner is that admittedly he put in service for 22 years 7 months as it is mentioned in the notice issued to the petitioner under Ex. W. 4 by the respondent for payment of gratuity. At this juncture, it is the contention of learned advocate for the petitioner that as on 16-2-2004 the petitioner put in 22 years of service

and had he been continued in service for two more years the petitioner would have been retired from service on his superannuation. This case itself is filed in the year 2006. There was a voluntary retirement scheme announced by respondent company two times and the petitioner applied for the voluntary retirement also under Ex. W.6 but the respondent issued letter to him dt. 5-2-2002 stating that as the petitioner was put less than 100 musters in the year 1998 his application for voluntary retirement under Golden Hand Shake (GHS) was not considered. The learned advocate for the petitioner further contended that he obtained some documents from the respondent's company under RTI Act which he filed in this case. As per the Circular dt. 11-7-2007 of the respondent company Voluntary Retirement Scheme was introduced for various categories of the workman in which Coal Filler at Sl. No. 34 is also included, that means the petitioner was being Coal Filler he was able to avail this opportunity. At clause 2.1.5 of this Circular it is mentioned that after the disciplinary proceedings are disposed off during the operation of the scheme they may seek Voluntary Retirement if they are otherwise eligible. The learned advocate for the petitioner contended that already petitioner was removed from service by that time, so, he should have been given an opportunity of Voluntary Retirement.

10. In reply to this the learned advocate for the respondents contended that as the petitioner was removed from service he was not eligible for Voluntary Retirement Scheme. The learned advocate for the petitioner filed memorandum of settlement between Management of SCC and their Workmen, dt. 9-8-2011 and among the terms of settlement under Item No. 2 Para No. 3 it is mentioned as follows :

"However, in view of the persistent request of the Recognised Union, it was offered to examine the cases of those workmen who were dismissed on account of absenteeism during the period from 1-1-2000 to 31-12-2010 on the same criteria that was followed in the years 2000 and 2004 by the High Power Committee in terms of MoS dt. 21-2-2000 and 20-8-2004."

The perusal of the above terms of settlement shows that the petitioner comes under this category as he was dismissed from service due to absenteeism during the period from 1-1-2000 to 31-12-2010 i.e. 6-11-2003. So, when the petitioner applied for Voluntary Retirement it was rejected to him, but, subsequently from the above terms of settlement it is clear that the respondents i.e. Management agreed to examine the cases of that period to consider for Voluntary Retirement. Therefore, the petitioner comes under this category as such he can be extended the benefit of Voluntary Retirement.

11. This case is of the year 2002 under which admittedly the petitioner has put only 88 musters in place

of 190 musters per year, the reason for putting less musters was explained by the petitioner that his wife and his son were attacked by epilepsy and for their treatment he absented from the duty. The petitioner did not say anything whether he informed this fact to the respondent before he was absent from the duty or not. But inspite of that the petitioner should not have been removed from service but lessor punishment would have been imposed on the petitioner. The learned advocate for the petitioner relied on a decision of Madras High Court reported in 2011-II-LLJ-785 (Mad) between Somasundaram Vs. Labour Court, Coimbatore and Another where it was held that :

“discharge of a workman who was driver on the ground of physical unfitness held not sustainable and it was contrary to Sec. 25-F of I.D. Act, so the driver was ordered to pay compensation of five lakhs rupees.”

In the instant case even the petitioner had not become physical unfit but the allegation is only absenteeism, therefore, he should not have been removed from the service and when he was removed he should have been compensated to that extend. In the first instance the petitioner prayed to award compensation of eight lakhs rupees but as an alternative he prayed to modify the removal order into compulsory retirement by granting full back wages of solitary from the date of removal to the date of realization together with gratuity and other attendant benefits. As the petitioner prayed this alternative relief, it appears proper to modify the removal order of the petitioner into voluntary retirement order even as per the circular and terms of settlement between Management and Workmen as referred above.

12. In the result, this petition is allowed. Accordingly the respondents shall treat the removal order as voluntary retirement scheme (Golden Handshake) order and shall pay to the petitioner all the amounts which an employee is entitled to get under voluntary retirement scheme after deducting amount if any already paid to the petitioner after his removal from service. However, the petitioner is not awarded any back wages from the date of his removal from service.

M. A. SHAREEF, Addl. Sessions Judge,
Chairman-cum-Presiding Officer

Appendix of Evidence

Witness Examined

For Workman :

— Nil —

For Management :

— Nil —

Exhibits

For Workman :

Ex. W-1	Dt. 10-3-1981	Office order – Appointment order of petitioner as Badli Filler, x. copy.
Ex. W-2	Dt. 11-2-2002	SCCL employee family members medical prescription registration form x. copy.
Ex. W-3	Dt. 11-4-2005	Letter issued to the petitioner by Colliery Manager, GDK6 Incline advising to attend the High Power Committee Head Office on 21-4-2005.
Ex. W-4	Dt. 16-2-2004	Advance notice for payment of gratuity.
Ex. W-5	Dt. 11-4-2005	Letter issued to the petitioner by the Colliery Manager, GDK 6 Incline to attend the High Power Committee in Head Office, Kothagudem on 21-4-2005.
Ex. W-6	Dt. 5-2-2002	Letter issued to the petitioner that his VRS (Golden hand shake) application not considered.

For Management :

Ex. M-1	Dt. 19-1-2003	Charge sheet office copy
Ex. M-2	Dt. 16-2-2003	Reply to the charge sheet
Ex. M-3	Dt. 18-5-2003	Enquiry notice office copy
Ex. M-4	Dt. 20-5-2003	Enquiry proceedings
Ex. M-5	Dt. 8-6-2003	Enquiry report
Ex. M-6	Dt. 2-7-2003	Undertaking letter of the petitioner submitted to the respondent
Ex. M-7	Dt. 9-7-2003	Show cause notice
Ex. M-8	Dt. 15-7-2003	Reply to the show cause notice
Ex. M-9	Dt. 3-11-2003	Dismissal order

नई दिल्ली, 28 अगस्त, 2012

का. आ. 2967.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (आइडी संख्या 149/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-8-2012 को प्राप्त हुआ था।

[सं. एल-22012/229/2002-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th August, 2012

S.O. 2967.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 149/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Pipla Colliery of Western Coalfields Limited, and their workman, which was received by the Central Government on 28-8-2012.

[No. L-22012/229/2002-IR (CM-II)]
B. M. PATNAIK, Section Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/149/2003

Date : 6-8-2012

Party No. 1 : The Personal Officer,
Pipla Colliery of Western Coalfields
Ltd., Tah. Saoner, Distt. Nagpur

The Superintendent of Mines,
Pipla Colliery of Western Coalfields
Ltd., Tah. Saoner, Distt. Nagpur

Vs

Party No. 2 : Shri Gajanan Lahanujee Dhawale,
R/o 4, PO Pipla (Dak Bunglow),
Tah. Saoner, Distt. Nagpur

AWARD

(Dated : 6th August, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the WCL and their workman, Shri G. L. Dhawale, for adjudication, as per letter No. L-22012/229/2002-IR(CM-II) dated 11-7-2003, with the following schedule :

"Whether the action of the management of Pipla Colliery through its Superintendent of Mines, WCL, Tah. Saoner, Distt. Nagpur in terminating the services of Shri G. L. Dhawale R/o. Pipla Dak Bangla, Tah. Saoner, Distt. Nagpur w.e.f. 7-5-1992 is proper, legal and justified ? If not, to what relief is the said workman entitled ?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman,

Shri G. L. Dhawale, ("the workman" in short), filed the statement of claim and the management of WCL, ("Party No. 1" in short) filed its written statement.

The case of the workman as presented in the statement of claim is that he joined the services of party no. 1 on 17-3-1973 and within a short period, he was confirmed as a loader and worked as such till 7-5-1992, the date of his termination and his service record was clean and excellent throughout his service period and the party no. 1 by its letter dated 9-11-1991, directed him and some other employees to remain present at Jawaharlal Nehru Hospital, Kamptee on 14-11-1991 for medical examination by the Area Medical Board and accordingly, he appeared before the said Board and party no. 1 by its letter dated 23-11-1991 again directed him to remain present to appear before the Area Medical Board at Jawaharlal Nehru Hospital for treatment and investigation purpose and he attended the Board accordingly and thereafter, he was referred to Central India Institute of Medical Sciences, Bajaj Nagar, Nagpur by party no. 1 for further investigation and report and as per the report of the Advance Scanning Research Institute Pvt. Ltd., Ramdaspath, Nagpur dated 20-2-1992, given by Dr. G. M. Taori, there was no demonstrable abnormality detected on C.T. Scan examinations of his brain and party no. 1 was directed by letter dated 20-2-1992 of Central India Institute of Medical Sciences to give him job in a protected place and party No. 1 by letter dated 25-2-1992 (wrongly mentioned as 25-1-1992 in the statement of claim) again directed him to attend the WCL Medical Board at Chandrapur Area Hospital on 3-3-1992 at 9.30 A.M. and he attended the Medical Board and the party no. 1 thereafter, by its office order dated 7-5-1992 terminated his services and removed his name from the roll, with immediate effect, as per C.M.O. letter no. NGP/WCL/CMD/ Feb/72-74/92 dated 3-4-1992, as he was declared unfit for duty. The further case of the workman is that the termination of his services was without one month's notice or one month's pay in lieu of notice and without payment of compensation and by notice dated 23-10-1992, he requested the party no. 1 to reinstate him in service on light duty, but party no. 1 failed to consider his request and termination of his services dated 7-5-1992 was against the Standing Orders applicable to party no. 1 and so also the Act and party no. 1 terminated his services, without giving him duty in a protected place and the action of party no. 1 was totally illegal and unlawful and the termination of his services was not in good faith, but was colourable exercise of rights of the management and the same amounted to victimization and he is fully fit to perform his duty till his retirement and as such, he is entitled to reinstatement in service with back wages.

The workman has prayed to quash and set aside the order of the termination of his services dated 5-7-1992 and to reinstate him in service with continuity and full back wages.

3. The party no. 1 in its written statement has pleaded inter-alia that the application as framed and filed is not maintainable in the eye of law and the workman has already exhausted the remedy by filing Misc. (ULPA) No. 71/93, which was dismissed by the Labour Court on 6-8-2003 and as such, the workman is not entitled to claim the relief again before this Tribunal and the claim is hit by the provisions of res-judicata and is liable to be dismissed summarily.

It is further pleaded by the party no. 1 that there is absolutely no merit in the case, as the workman slept over his alleged rights of reinstatement for a period of 12 years and the delay is fatal to the proceeding and the reference is liable to be dismissed on this count only.

The further case of party no. 1 is that the workman was very well aware of his "unfitness" and was duly apprised that he being unfit was liable to be terminated, but due to the instigation of the union, the workman filed the instant dispute for the sake of raising the same, without their being any reason to do so and the workman was declared medically unfit by the Board, which to Supreme, and as such, the report of Dr. G. M. Taori is of no relevance and the workman being unfit to work could not be absorbed at any other place and as the Board declared the workman unfit for duty, he was rightly removed and the question of giving alternative job at a protected place does not arise and the workman is mentally unfit and there was no breach of any provision of the Act and the workman is not entitled to any relief.

4. Besides placing reliance on the documentary evidence, the workman examined himself as a witness in support of his claims. Management placed reliance on documentary evidence only and did not adduce any oral evidence.

The examination-in-chief of the workman is on affidavit. In his evidence, the workman has reiterated the facts mentioned in the statement of claim. However, in his cross-examination, the workman has stated that he is unable to understand English and his affidavit is in English and he cannot say about the contents of his affidavit. He has further admitted that WCL provides medical facilities and treatments in its hospitals and WCL takes medical fitness test as per the provisions of the Mines Act and he was being treated medically during his tenure and on 26-8-1991, he took treatment and on 14-11-1991, he was referred to CIIMS Hospital and in that hospital, he was told that he was unfit to perform the duties of loader and he was referred to Apex Medical Board, where he was declared unfit for the job of loader. The workman has admitted that since, he was unfit, he was removed from service and he received the amount of the Provident Fund and his approach application was rejected by the party no. 1 on 27-6-1992 and he did not approach the ALC challenging the order till 2001 and there was no other

ground to terminate his services except the medical unfitness.

5. At the time of argument, it was submitted by the learned advocate for the workman that the services of the workman were terminated on 7-5-1992 and as per the direction of the party no. 1, the workman appeared before the Medical Board on 14-11-1991 for his medical examination and after his medical examination, he was referred to CIIMS for further examination and investigation regarding epilepsy and on 28-11-1991, the workman was again examined by the Area Medical Board as per the direction of the party no. 1 and he was referred to Advance Scanning Research Institute Pvt. Ltd. C.T. Scan of brain and the said institute submitted the Scanning Report on 20-2-1992 stating that no demonstrable abnormality was detected on C.T. Scan examination of his brain and the CIIMS hospital recommended to give him job in a protected place and the workman was again medically examined on 3-3-1992 by the WCL Medical Board and basing on the report of the Medical Board, party no. 1 terminated the services of the workman w.e.f. 7-5-1992, without considering the expert opinion.

It was further argued that Limitation Act is not applicable to industrial dispute and the judgment cited have no application and the workman was vigilant in the matter and soon after his termination, he raised the dispute before the Labour Court at Nagpur, but unfortunately, the same was filed before the wrong forum by his counsel and the workman is entitled to get the protection as provided in Section 47 of the "Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and as the services of the workman were terminated without any notice and payment of compensation to him, the termination amounts to retrenchment as per the definition under Section 2(oo) of the Act and as such, the workman is entitled to full relief."

In support of such contentions, the learned advocate for the workman placed reliance on the decisions reported in 1987 II CLR—page 1 (Kishorilal Vs. Santoshi Tel Utpadan Kendra), 2009 II CLR—367 (Belliyappa Gowda Vs. Karnataka State Road Transport Corporation, Bangalore and another), 2008 I CLR—789 (Bhagwan Dass Vs. Punjab State Electricity Board) and 2012 (133) FLR—286 (Delhi Transport Corporation Vs. Inder Singh).

6. Per Contra, it was submitted by the learned advocate for the party no. 1 that as the dispute has been raised about 12 years after the termination of the services of the workman, the claim is a stale claim and the same cannot be entertained. In support of such contention, reliance has been placed on the decisions reported in 1998 (2) Mh. L.J.—141 (State of Maharashtra Vs. Dnyaneshwar Rakmaji), 1960 (II) LLJ—71 (SC) (Jhagrakhand Collieries Vs. CGIT), 1980 (41) FLR 109 (Raurkela Mazdoor Sabha Vs. State).

It was further submitted that the termination of the workman from services was due to the reason of his unfitness to work and the decision of the Medical Board is final and basing on the report of the Medical Board, the termination was made and such termination does not amount to retrenchment and as such, there was no question of compliance of the provisions of Section 25-F of the Act and the workman is also not entitled to get the protection of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, as the termination was prior to the coming of the Act into force.

7. First of all, I will take up the submissions made regarding the delay in raising the dispute by the workman. In this regard, that party no. 1 in the written statement itself has pleaded that there is absolutely no merit in the case of the workman, as he slept over the alleged rights of reinstatement and wages, for a period of over 12 years and as such, the delay is fatal to the proceedings. In support of such submission, party no. 1 has placed reliance on the decisions reported in 1998 (2) Mh. L.J.-141 (Supra), 1960 (II) LLJ-71 (SC) (Supra) and 1980 (41) FLR-109 (Supra).

According to the submission made by the learned advocate for the workman, there was no delay in raising the dispute by the workman and soon after the termination, the workman raised the dispute, but however wrongly in the Labour Court and the workman was vigilant in the matter and the decisions cited by the party no. 1 are not applicable to this case. The learned advocate for the workman placed reliance on the decision reported in 1987 (II) CLR-page 1 (Supra).

In this case, admittedly, the services of the workman were terminated w.e.f. 7-5-1992. The present reference was made by the Central Government as per letter dated 11-7-2003, that is more than 12 years after the termination of the services of the workman.

The workman in the statement of claim has mentioned that he approached the wrong forum of Labour Court, Nagpur after his termination from services and the case was withdrawn by him on 6-8-2003 as not maintainable in law. The workman in his evidence on affidavit has also stated the same thing. Though, the workman has not mentioned the date on which, he approached the Labour Court and the number of complaint of the Labour Court, the party no. 1 in the written statement has mentioned that the workman has already exhausted the remedy by filing Misc. (ULPA) No. 71/1993, which was dismissed on 6-8-2003. From such pleadings, it can be held that the workman approached the Labour Court, Nagpur in 1993, i.e. soon after his termination from services. No doubt, the workman approached a wrong forum for redress, but by taking the entire facts and circumstance of the case into consideration and that the Labour Court did not dispose

of the ULPA No. 71/1993 on merit and the principles enunciated by the Hon'ble Apex Court and the Hon'ble High Courts in the decisions cited by the parties, it is found that this is not a case of a stale claim or that the delay in raising the dispute has not been explained. Hence, I find no force in the contention raised by the learned advocate for the party no. 1.

8. The next question raised by the learned advocate for the workman is regarding the entitlement of the workman of the protection under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. It is to be mentioned here that the services of the workman were terminated on 7-5-1992, whereas the above mentioned Act came into force in 1995. The said Act has no retrospective effect. Hence, the provisions of the Act, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 have no application to the case of the workman. Therefore, with respect, I am of the view that the three decisions cited by the learned advocate for the workman in this regard are also not applicable to this case.

9. So far the termination of the services of the workman is concerned, it is not disputed that the workman was found not fit to work by the Medical Board of party no. 1 and basing on such report, the services of the workman were terminated. No doubt, it was suggested by the doctor of Central India Institute of Medical Sciences, Nagpur to provide work in a protected place. Such report also shows that the workman was not fit to do his normal duty. The workman was working in the colliery and in the colliery there is no question of any protected place, where the workman was to be given job. Moreover, the Medical Board of the party no. 1 is the final authority regarding giving of findings about the fitness or unfitness of an employee working in WCL. The findings of the Medical Board that the workman was unfit for duty was not challenged by the workman. Hence, the action of the party no. 1 in terminating the services of the workman, basing on the report of the Medical Board is not illegal.

The termination of the services of the workman does not amount to retrenchment as the same comes under the exception of the proviso (c) of Section 2(oo) of the Act i.e. as the termination of the workman was on the ground of continued ill health. Hence, there was no question of compliance of the provisions of Section 25-B and 25-F of the Act.

In view of the materials on record and the discussions made above, it is found that the workman is not entitled to any relief. Hence, it is ordered :

ORDER

The action of the management of Pipla Colliery through its Superintendent of Mines, WCL, Tah. Saoner, Distt. Nagpur in terminating the services of

Shri G. L. Dhawale R/o. Pipla Dak Bangla, Tah. Saoner, Distt. Nagpur w.e.f. 7-5-1992 is proper, legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 29 अगस्त, 2012

का.आ. 2968.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 151/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/108/2003-आई अर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th August, 2012

S.O. 2968.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 151/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 29-8-2012.

[No. L-12012/108/2003-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/151/2003

Shri Mohd. Shakir Hasan, Presiding Officer.

Shri Rajiv Babanrao,
S/o Shri Bhaban Rao,
Rajpura, Behind Dr. Ashok Shah, Supra,
Burhanpur. (M.P.) ... Workman

Versus

The Asstt. General Manager,
State Bank of India, Region-II,
Zonal Office, Hamidia Road,
Bhopal (M.P.) ... Management

AWARD

Passed on this 19th day of July, 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-12012/108/2003-IP (B-I) dated

3-9/9/2003 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of Assistant General Manager, State Bank of India, Region-II Bhopal in terminating the services of Shri Rajiv Babanrao w.e.f. 11-12-1998 is justified ? If not, to what relief the workman is entitled for ?”

2. The case of the workman, in short, is that he was appointed by the management Bank as temporary daily wages peon against the vacant post w.e.f. 19-1-1992. He worked continuously till 11-12-1998 when his services were terminated without any reason arbitrarily. He had completed 240 days in one calendar year and got right equivalent to permanent/regular employee of the bank. It is stated that Shri Ram Singh Raikwar and Raju Nimbolkar were also appointed on daily wages but they were made regular appointment. It is stated that several posts are vacant and similarly situated employees were regularized in the services. The termination of the services of the workman is illegal, unjust and improper. It is submitted that the workman be reinstated with full back wages.

3. The management appeared and filed Written Statement to contest the reference. The case of the management, inter alia, is that the workman was engaged as daily rated contractual employee on the exigency of work for discharging the duties of “Hammal” at Burhanpur branch of the State Bank of India, Burhanpur. He worked in the year 1992-255 days, in 1994-265 days, in 1995-256 days, in 1996-278 days, in 1997-251 days and in 1998-222 till the date of disengagement. His case is covered under the provision of Section 2(oo)(bb) of the Industrial Disputes Act, 1947 (in short the Act, 1947). He was not a retrenched employee and he was not entitled to any retrenchment compensation under the provision of Section 25-F of the Act, 1947. He had not worked 240 days in a calendar year as required under Section 25-B of the Act, 1947. However he was paid one month wages in lieu of one month notice and also retrenchment compensation of Rs. 5400 on 11-12-1998. The casual employees who were engaged prior to 1991 were given opportunities for absorption in the bank services on settlement arrived between the management and the Union. The case of the workman did not cover the said settlement. Under the circumstances, the workman is not entitled to any relief.

4. On the basis of the pleadings of both the parties, the following issues are settled for adjudication :—

I. Whether the action of the management in terminating the services of Shri Rajiv Babanrao w.e.f. 11-12-1998 is justified ?

II. To what relief the workman is entitled ?

5. It is clear from the pleadings of the parties that the following facts are admitted :—

- (1) The workman Shri Rajiv Babanrao was engaged on daily wages w.e.f. 19-1-1992 at Burhanpur Branch of the management Bank.
- (2) He worked till 11-12-1998 in the bank when his services were terminated.
- (3) He worked 240 days in every calendar year in accordance with Section 25 (B)(2) of the Act, 1947.

6. Issue No. I :

Now the important point for consideration is that as to whether his termination was within the provision of the Act, 1947 or not. The workman has adduced oral and documentary evidence. The documents filed by the workman are admitted by the management. According to the workman, no showcause notice was served on him before terminating from services. On the other hand, the management states that one month wages in lieu of notice and retrenchment compensation were paid to the workman on termination from services in compliance of Section 25-F of the Act, 1947.

7. Exhibit W/1 is the photocopy of letter dated 11-12-1998 of the management bank. The said letter clearly shows that one month wages of Rs. 1350 and retrenchment compensation of Rs. 5,400 was paid to the workman in compliance of Section 25-F of the Act, 1947. This shows that his services were terminated in accordance with provisions of the Act, 1947. Exhibit W/2 is the statement of days of work done by the workman. These facts are also admitted in the pleading by the management. Exhibit W/3 is the application filed by the workman raising dispute before the Deputy Labour Commissioner, Bhopal. Para-4 of the said application clearly shows that the workman had admitted that one month wages in lieu of notice and retrenchment compensation was paid to him. This clearly shows that the workman was terminated by the management Bank in accordance with the provision of law and there was no illegality. Exhibit W/4 is the reply given by the management before the Asstt. Labour Commissioner (C) Bhopal. Exhibit W/5 is the failure report of the Asstt. Labour Commissioner (C) Bhopal whereby it was reported to the Ministry that the dispute raised was not amicably settled between the parties. Exhibit W/6 is the reference order whereby the dispute is referred to the Tribunal. Thus the documentary evidence filed by the workman clearly show that the management had complied the provision before terminating the workman and the action of the management was justified.

8. The workman Shri Rajiv is examined in the case. He has stated that he was appointed in the year 1992 and worked till 1998. He has further stated that Shri Ram Singh

Raikwar and Raju Nambolkar were engaged in the Bank on daily wages before his engagement. This itself shows that their cases were on different footing as they were engaged prior to 1991. He is unable to say that as to from which period to which period they were engaged. He appears to be not competent to say about their case who are said to have been regularized in the services of the Bank. His evidence does not prove that there was any illegality or discrimination done to him.

9. On the other hand, the management has examined Shri Kamal Shankar Vyas. He is working as Branch Manager in the Main Branch, Burhanpur. He has supported the case of the management. He has admitted that the workman was engaged on daily wages. He has stated at para-3 that one month wages was paid in lieu of notice and retrenchment compensation of Rs. 5,400 was paid to the workman on 11-12-1998. He has corroborated the document filed by the workman which is marked as Exhibit W/1. His evidence clearly shows that the workman was disengaged after complying the provision of Section 25-F of the Act, 1947. He has further stated in his evidence that those casual labour who worked prior to 1991 were given chances to take in the bank Service in view of the settlement between the management and the Union. Admittedly the workman was engaged after 1991 and therefore the said settlement was not applicable to the workman. Thus this issue is decided against the workman and in favour of the Bank.

10. Issue No. II :

On the basis of the discussion made above, it is clear that the action of the management in terminating the services of the workman is justified. The workman is not entitled to any relief. The reference is, accordingly, answered.

11. In the result, the award is passed without any order to costs.

12. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 29 अगस्त, 2012

का.आ. 2969.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार राजगढ़ सिहोर क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 27/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/273/2004-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th August, 2012

S.O. 2969.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/05) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Rajgarh Sehore Kshetriya Gramin Bank and their workman, which was received by the Central Government on 29-8-2012.

[No. L-12012/273/2004-IR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/27/2005

Shri Mohd. Shakir Hasan, Presiding Officer

Shri Rameshwar Makaria,
S/o Shri Hiralal Makaria,
Narsingharh Road,
Galla Mandi, Sehore,
Sehore (M.P.)

... Workman

Versus

The Chairman,
Rajgarh Sehore Kshetriya Gramin Bank,
Head Office, Bhopal-Indore Highway,
Sehore, Madhya Pradesh

... Management

AWARD

Passed on this 2nd day of August, 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-12012/273/2004-IR (B-I) dated 5-4-2005 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the Chairman, Rajgarh Sehore Kshetriya Gramin Bank, Head Office, Sehore, (M.P.) in terminating the services of Shri Rameshwar Makaria, S/o Shri Hiralal Makaria ? If not, to what relief the concerned workman is entitled to ?”

2. The case of the workman, in short, is that he was appointed in the year 1989 in Rajgarh Sehore Kshetriya Gramin Bank as class IV employee and was working continuously till 11-11-2002 when the management terminated without notice and without payment of retrenchment compensation as has been provided under Section 25-F of the Industrial Dispute Act, 1947 (in short the Act, 1947). It is stated that when the workman raised for regularizing him, he was terminated from the service. It is stated that similarly situated worker namely Shri

Narender Joshi is again taken in employment by the management Bank on the basis of the settlement. It is submitted that the workman be reinstated with back wages.

3. The management appeared and filed Written Statement to contest the reference. The case of the management, inter alia, is that the workman was never appointed in the service of the Bank. There is recruitment rules for appointment in the service of the Bank. It is stated that there was no relationship of employer and employee between the management Bank and the alleged workman. The alleged workman was engaged for few days on daily wages due to either increase of work or due to absence of regular/permanent sub-staff of the Bank. He was never engaged in work for 240 days in any calendar year. The Section 25-F of the Act, 1947 is not applicable. It is submitted that the alleged workman is not entitled to any relief.

4. On the basis of the pleadings the following issues are settled for adjudication :—

I. Whether the action of the management in terminating the services of Shri Rameshwar Makaria is legal and justified ?

II. To what relief the workman is entitled ?

5. The workman Shri Rameshwar Makaria is examined in the case. In examination-in-chief he has supported his case. He has stated that no appointment letter was issued and he was engaged on daily wages. He has further stated that he was engaged in case of contingency of work. He has supported the case of the management that he was engaged on daily wages in case of need. This clearly shows that he was not engaged regularly and was not appointed on Class IV post. He has not supported his pleadings. His story of engagement of the pleading is not acceptable as such the story of the management is to be accepted that he was engaged intermittently and was never engaged 240 days in any calendar year.

6. The workman has also filed documentary evidence which are admitted by the management and are marked as Exhibit W/1 to W/16. Exhibit W/1 is a letter dated 26-1-2002 which was given by the workers Union to the management whereby the Union demanded to regularize the alleged workman and also Shri Narendra Joshi. Exhibit W/2 is the settlement dated 14-1-03 between the management and Shri Narendra Joshi and Rameshwar Makaria whereby they agreed to withdraw the dispute raised before the ALC. Exhibit W/3 is another letter dated 17-1-2003 to the management by the Union for taking them in employment. Exhibit W/4 is the letter dated 22-1-2003 of the alleged workman to the management requesting him to take in employment. Exhibit W/5 is the reply of the management filed before the ALC(C) Bhopal, MP whereby the management had taken the same plea that the alleged workman was engaged on daily wages for 2 to 4 days on

exigency of work, Exhibit M/6 is another reply dated 12-2-2004 by the management before the ALC(C) Bhopal on the dispute raised by the workman and the management denied the claim of the workman. Exhibit M/7 is the representation dated 28-9-2004 given by the workman to the management. Exhibit W/15 is same document as Exhibit W/2. Exhibit W/16 is another reply dated 11-10-2004 filed by the management before ALC(C) Bhopal wherein the management took the same stand and denied the claim of the workman. These all documents go to show that there was demand of the alleged workman that he worked continuously but the same was denied by the management. These documents do not prove that he was working continuously as has been alleged by him.

7. Exhibit W/8 is the chart of work and payment of wages of the workman Shri Rameshwar Makariya. This shows that he was not engaged on daily wages in the year 1992 for 24 days and in the year 1993 for 42 days. This itself shows that he was regularly employed and was not engaged 240 days in a calendar year as has been claimed by the workman. Exhibit W/9 is the voucher of the year 1992 of 24 days. Exhibit W/10 to Exhibit W/13 are also vouchers of the year 1993. These vouchers also show that he had not worked 240 days on casual basis in the year 1993. Exhibit W/14 is photocopy of pass book of recurring deposit in the name of the workman. These documents do not show that he had worked continuously specially 240 days in twelve calendar months preceding the date of termination. There is no vouchers or other papers to show that the workman was engaged after 1993. Thus it is clear from the oral and documentary evidence

that the workman shall not be deemed to be in continuous service for the period of one year during the period of twelve calendar months preceding the date with reference as provided in Section 25(B)(2) of the Act, 1947. This shows that there is no violation of the provision of Section 25-F of the Act, 1947.

8. The management has also adduced one witness. The management witness Shri Dada Maloda is working as General Manager in the management Bank. He has supported the case of the management. He has stated that the alleged workman was never employed in the service of the Bank. He might have been engaged as daily wager occasionally. His evidence also shows that he had not worked continuously on daily wages. Thus it is clear that the workman had never worked 240 days in any calendar year and especially in twelve calendar months prior to the date of alleged termination. This issue is decided against the workman and in favour of the management.

9. Issue No. II :

On the basis of the discussion made above, it is clear that there is no violation of the provision of Section 25-F of the Act. As such the workman is not entitled to any relief. The reference is, accordingly, answered.

10. In the result, the award is passed without any order to costs.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer